TOWNS ACT

Chapter 309 of the Revised Statutes of Nova Scotia, 1967,
with Amendments to 1982

1982 OFFICE CONSOLIDATION

Department of Municipal Affairs
P. O. Box 216
Halifax, Nova Scotia
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This consolidation is prepared for purposes
of convenience only, and for accurate
reference recourse should be had to
the official volumes.

CHAPTER T-15

TOWNS ACT
cited as
R.S.N.S., 1967, Chapter 309

Interpretation

1 In this Act,

(a) "Minister" means Minister of Municipal Affairs;

(b) "rates and taxes of all kinds" includes rates and taxes payable under the Assessment Act, and also water rates, sewer rates, sewer frontage rates, sidewalk rates, paving rates and any other special rates authorized by law;

(c) "town" means incorporated town;

(d) "trailer" includes mobile home. R.S., c. 309, s. 1; 1969, c. 77, s. 1.

APPLICATION OF ACT

Application of Act

2 (1) Every town now incorporated is subject to this Act, except as otherwise provided in any Act relating specially to the town.

Boundaries of Town and Wards and Number of Councillors

(2) The boundaries of every town, the number and boundaries of the wards in every town, and the number of councillors for the town and for each ward in the town shall continue to be as at present existing until altered by or under an Act of the Legislature. R.S., c. 309, s. 2.

Body Corporate

3 (1) On the date fixed by the order incorporating a town made under the Municipal Boundaries and Representation Act the inhabitants of the town shall constitute a body corporate under the name stated in the order.

Suits and Acquisition of Property

(2) A town shall be capable of suing and being sued in its corporate name and of purchasing, acquiring and holding lands and tenements and all kinds of real and personal property, for the use of the town.

Alienation of Property

(3) With the consent of the Minister a town may mortgage or lease any such real or personal property or may sell and convey the same when no longer required for the use of the town, provided such consent shall not be necessary where the property so mortgaged, sold or conveyed does not exceed twenty-five thousand dollars in value.

Consent To Alienate Property

(4) The consent of the Minister is required under subsection (3) notwithstanding that the property may be mortgaged, leased, sold or conveyed under the authority of some other Act of the Legislature. R.S., c. 309, s. 3; 1969, c. 77, s. 2; 1969, c. 78, s. 1; 1980, c. 49, s. 1; 1982, c. 47, s. 1.

COMMON SEAL

Common Seal

4 (1) The common seal of the town shall be made of suitable metal, and shall have such device engraved thereon as the council from time to time orders.

Custody of Seal

(2) The seal shall be kept by the town clerk. R.S., c. 309, s. 4.

Execution of Document

5 All deeds or documents to which the town is a party and to which a seal is requisite, shall be authenticated by the town seal and the mayor and town clerk shall when duly authorized sign such deeds or documents, and affix the seal thereto. R.S., c. 309, s. 5.

Authentication of Document

6 The mayor or town clerk may affix the seal to any proper certificate or document for the purpose of the

authentication of the same upon payment of such fee therefor as the town council by resolution or by-law prescribes. R.S., c. 309, s. 6.

MAYOR AND TOWN COUNCIL

Town Council

7 (1) Every incorporated town shall be governed by a town council, consisting of a mayor and not less than six councillors.

Ex Officio Justice of the Peace

(2) The mayor and every councillor shall, upon being declared elected, be ex officio a justice of the peace for the town, and shall have and may exercise within the town all the powers, duties and privileges and enjoy all the exemptions and immunities of a justice of the peace, but shall not have power to try any action unless he also holds a commission as a justice of the peace. R.S., c. 309, s. 7.

8 Repealed 1980, c. 49, s. 2.

9 Repealed 1978-79, c. 4, s. 162.

[FIRST ELECTION AFTER INCORPORATION]*

10 Repealed 1978-79, c. 4, s. 162.

11 Repealed 1978-79, c. 4, s. 162.

12 Repealed 1978-79, c. 4, s. 162.

13 Repealed 1978-79, c. 4, s. 162.

14 Repealed 1978-79, c. 4, s. 162.

15 Repealed 1978-79, c. 4, s. 162.

[OATH OF OFFICE]*

16 Repealed 1978-79, c. 4, s. 162.

DUTIES OF MAYOR

Duties of Mayor

17 (1) The mayor shall be the chief executive officer of the town, and it shall be his duty to cause the government of the town to be conducted in accordance with any laws relating thereto; to supervise the conduct of all officers and employees of the town, and so far as practicable to cause all negligence, carelessness and violation of duty to be prosecuted and punished, and to communicate from time to time to the council such information, and recommend such measures as may tend to the improvement of the finances, cleanliness, and appearance of the town and the health, security and comfort of the inhabitants thereof.

Remuneration and Expenses of Mayor

(2) The mayor may be paid by the town such remuneration as the council by resolution determines from time to time, and part thereof may be determined by the Council [council] to be an allowance for expenses incidental to the discharge of his duties as an elected officer of the town. R.S., c. 309, s. 17.

POWERS AND DUTIES OF TOWN COUNCIL

Powers and Jurisdiction of Town Council

18 (1) The town council shall exclusively have, enjoy and exercise within the town, all jurisdiction, power and authority which, but for the incorporation of the town, might have been exercised therein, or in respect thereof, by the municipal council or any committee thereof or officers appointed thereby.

Property of Town

(2) All property heretofore declared by any Act of the Legislature to be the property of the town or under the control of the town council, shall continue to be the public property of the town, and shall continue to be under the exclusive control and management of the town council thereof.

Remuneration and Expenses of Councillors

(3) The councillors may be paid by the town such remuneration as the council may by resolution determine and part thereof may be determined by the council to be an allowance for expenses incidental to the discharge of their duties as elected officers of the town. R.S., c. 309, s. 18.

Exercise of Powers of Town

19 (1) The powers of every town shall be exercised by the council thereof.

Powers where Authorized To Pay or Borrow Money

(2) In addition to any other powers possessed by a town a town has power to make and carry out any contract, perform any act, do any thing and provide any service for which a town or a town council is given power either by this Act or by any other Act to vote, rate, collect, receive, appropriate or pay money or for which a town or a town council is given power either by this Act or by any other Act to borrow money.

Agreement Respecting Joint Municipal Services

(3) A town may enter into and carry out an agreement with one or more cities, villages, municipalities or other towns, for the establishing, providing, continuing, maintaining or administering of municipal services by one or more of them jointly or severally, to all or part of the area of the cities, towns, villages and municipalities that enter into the agreement,[,]* and without restricting the generality of the foregoing these services may include park and recreational services, fire protection, police protection, the removal of ice and snow from streets or sidewalks or both, the supplying of water, the supplying and use of sewers and sewage disposal, and the collecting, removing and disposing of garbage.

Content of Agreement

(4) An agreement under subsection (3) may include:

(a) a description of the services to be provided pursuant to the agreement;

(b) the area for which the services are to be provided;

(c) how and by whom the services are to be established, provided, continued, maintained or administered, with power to delegate these either to a District Planning Commission [district planning commission] created under the Planning Act or to a Committee [committee] consisting of representatives of each of the participating units or to one or more of the participating units;

(d) how the cost of the services, both capital and current, is to be provided, the proportions of the cost to be paid by each participating unit or a method of determining these proportions, when the respective shares of the cost are to be paid and a rate of interest to be payable for default by a participating unit in prompt payment;

(e) the ownership of any capital assets to be created under the agreement;

(f) provisions for the disposition of a capital asset before or at the termination of the agreement;

(g) any provision for amending or terminating the agreement;

(h) such other terms and conditions relating thereto as the parties may agree upon.

Town Appointments to Jail or Court-house Committee

(5) Where a town pays part of the cost of erecting, altering, keeping, adding to, repairing or maintaining a jail or court house [court-house], the council may appoint members to the committee of the municipality that administers it, pursuant to Section 96A of the Municipal Act. R.S., c. 309, s. 19; 1968, c. 58, s. 1; 1970, c. 72, ss. 1,2; 1975, c. 38, s. 1; 1978-79, c. 36, s. 1.

Standing Committees and Assistance by Council to Mayor

20 (1) The council shall assist the mayor in the discharge of his duties, and shall appoint standing committees from among its members for such purposes as the council by by-law determines.

Reporting by Standing Committee

(2) The standing committees shall from time to time report to the council any special circumstances in respect of the services under their charge, and shall further report to the council in reference to any subject coming within their supervision whenever required by the council so to do.

Special Committees

(3) Special committees may be appointed by the council for any particular purpose, matter or thing, and such special committees shall report in writing upon the matters so committed to them.

Dissenting Report and Signing of Committee Report

(4) The reports of all committees, when unanimous, shall be signed by the chairman, otherwise by

such members of the committee as concur in the report, and the minority, or any dissenting member of a committee, may present a separate report in writing.

Authorizing of Others To Appoint Members of Committees

(5) A town council may by by-law authorize the appointment to committees, of persons by the Governor in Council or, in the case of any operation carried on jointly by the town and another town, city or municipality, of members by the council of such other town, city or municipality. R.S., c. 309, s. 20.

MEETINGS OF THE TOWN COUNCIL

Call of Council Meeting by Mayor

21 (1) Notwithstanding any other provision of this Act, or of the by-laws of the town, the mayor may call meetings of the town council as often as he deems necessary.

Call of Meeting on Request of Councillors

(2) The mayor shall when requested in writing to do so by three members of the council, call a meeting of the council within three days thereafter, and in the event of his refusal or neglect to do so, such three members may appoint a time and place for holding the meeting, and shall notify the mayor and the other members of the council thereof; the meeting so called shall have the same powers and authority as if the same had been summoned by the mayor. R.S., c. 309, s. 21.

Notice of Council Meeting

22 Written notice shall be given at least twenty-four hours before any meeting of the council (including meetings called by three members of the council); such notice shall specify the time and place of meeting and shall be signed by the town clerk or by such three members of the council, and shall be left at the usual place of abode or the usual place of business of each member of the council; provided that an emergency meeting may be called by the mayor at shorter notice when necessary, but no business shall be transacted at an emergency meeting other than that indicated in the notice calling the meeting, unless all members of the council are present, and no objection is taken to the discussion or transaction of business other than that stated in that notice. R.S., c. 309, s. 22.

Call of First Meeting after Incorporation

23 The first meeting of the council after a town has been incorporated under this Act shall be called by the

mayor-elect, by written notice given to every member-elect of the council, at least twenty-four hours before the meeting. R.S., c. 309, s. 23.

Deputy Mayor

24 The council shall annually at the first meeting after the annual election, or so soon thereafter as practicable, and from time to time as occasion requires, appoint one of their number to discharge the duties of mayor, who shall be called the deputy mayor and who shall, during any vacancy in the office of mayor, or during any absence or illness of the mayor, have and exercise all the powers and authority and discharge all the duties of the mayor. R.S., c. 309, s. 24.

Quorum

25 A majority of the members of the council shall constitute a quorum. R.S., c. 309, s. 25.

Council Meetings Open to Public

26 All meetings of the council shall be open to the public. 1978-79, c. 36, s. 2.

Presiding at Council Meeting

27 The mayor or deputy mayor shall preside at all meetings of the council, and in their absence the council shall elect a chairman from their number who shall preside.

Decision-making and Tie Vote

(2) All questions arising in the council shall be decided by a majority of the votes of council, including the mayor or other presiding officer who shall have a right to vote on all such questions, and in the event of a tie the motion shall be deemed to have been lost. R.S., c. 309, s. 27.

Request To Put Motion

28 (1) When a majority of the members present at a meeting of a town council request in writing that the mayor or the member presiding put any motion to a vote of the council, the mayor, or member presiding, shall forthwith put the motion to a vote of the council.

Failure To Put Motion upon Request

(2) If the mayor, or member presiding, refuses or neglects to so put the motion, any member of the council

may put the motion and may vote thereon, and if a majority of the council present votes for the motion the same shall be recorded by the town clerk in the minutes of the proceedings of the town council, and shall be valid and binding as a resolution of the council. R.S., c. 309, s. 28.

[TERM OF OFFICE OF MAYOR AND COUNCILLORS]*

29 Repealed 1978-79, c. 4, s. 162.

30 Repealed 1978-79, c. 4, s. 162.

31 Repealed 1978-79, c. 4, s. 162.

32 Repealed 1978-79, c. 4, s. 162.

33 Repealed 1978-79, c. 4, s. 162.

34 Repealed 1978-79, c. 4, s. 162.

[PERSONS DISQUALIFIED AS MAYOR OR COUNCILLOR]*

35 Repealed 1978-79, c. 4, s. 162.

36 Repealed 1978-79, c. 4, s. 162.

37 Repealed 1978-79, c. 4, s. 162.

38 Repealed 1978-79, c. 4, s. 162.

39 Repealed 1978-79, c. 4, s. 162.

40 Repealed 1978-79, c. 4, s. 162.

41 Repealed 1978-79, c. 4, s. 162.

42 Repealed 1978-79, c. 4, s. 162.

43 Repealed 1978-79, c. 4, s. 162.

44 Repealed 1978-79, c. 4, s. 162.

45 Repealed 1978-79, c. 4, s. 162.

[NOMINATION OF CANDIDATES]*

46 Repealed 1978-79, c. 4, s. 162.

47 Repealed 1978-79, c. 4, s. 162.

48 Repealed 1978-79, c. 4, s. 162.

[QUALIFICATION OF VOTERS]*

49 Repealed 1978-79, c. 4, s. 162.

50 Repealed 1978-79, c. 4, s. 162.

51 Repealed 1978-79, c. 4, s. 162.

52 Repealed 1978-79, c. 4, s. 162.

53 Repealed 1978-79, c. 4, s. 162.

54 Repealed 1978-79, c. 4, s. 162.

[PROCEEDINGS ON POLL BEING GRANTED]*

55 Repealed 1978-79, c. 4, s. 162.

56 Repealed 1978-79, c. 4, s. 162.

[ADVANCE POLLS]*

57 Repealed 1978-79, c. 4, s. 162.

58 Repealed 1978-79, c. 4, s. 162.

59 Repealed 1978-79, c. 4, s. 162.

60 Repealed 1978-79, c. 4, s. 162.

61 Repealed 1978-79, c. 4, s. 162.

[PROCEEDINGS ON POLLING DAY]*

62 Repealed 1978-79, c. 4, s. 162.

63 Repealed 1978-79, c. 4, s. 162.

64 Repealed 1978-79, c. 4, s. 162.

65 Repealed 1978-79, c. 4, s. 162.

[POLL]*

66 Repealed 1978-79, c. 4, s. 162.

67 Repealed 1978-79, c. 4, s. 162.

68 Repealed 1978-79, c. 4, s. 162.

69 Repealed 1978-79, c. 4, s. 162.

70 Repealed 1978-79, c. 4, s. 162.

71 Repealed 1978-79, c. 4, s. 162.

72 Repealed 1978-79, c. 4, s. 162.

73 Repealed 1978-79, c. 4, s. 162.

74 Repealed 1978-79, c. 4, s. 162.

[PROCEEDINGS AFTER CLOSE OF POLL]*

75 Repealed 1978-79, c. 4, s. 162.

76 Repealed 1978-79, c. 4, s. 162.

77 Repealed 1978-79, c. 4, s. 162.

78 Repealed 1978-79, c. 4, s. 162.

79 Repealed 1978-79, c. 4, s. 162.

80 Repealed 1978-79, c. 4, s. 162.

81 Repealed 1978-79, c. 4, s. 162.

[ELECTION OFFENCES]*

82 Repealed 1978-79, c. 4, s. 162.

83 Repealed 1978-79, c. 4, s. 162.

[RECOUNT]*

84 Repealed 1978-79, c. 4, s. 162.

85 Repealed 1978-79, c. 4, s. 162.

86 Repealed 1978-79, c. 4, s. 162.

87 Repealed 1978-79, c. 4, s. 162.

[PROCEEDINGS IN CASE OF VACANCY]*

88 Repealed 1978-79, c. 4, s. 162.

CLERK

Town Clerk

89 (1) Every council shall appoint a clerk who shall be called the "town clerk" and who shall hold office during good behaviour but who may be dismissed at any time by the council for cause.

Probationery Appointment

(2) Notwithstanding subsection (1), a council may at the time of appointing a clerk provide that he be on probation for a period not exceeding six months, and in such case the council may dismiss him without cause at any time within that period.

Clerk as Chief Administrative Officer

(3) The council may by by-law provide that the clerk be the Chief Administrative Officer [chief administrative officer] of the Town [town] to carry out such additional duties and responsibilities as may be prescribed by the by-law or from time to time assigned to him by the council. R.S., c. 309, s. 89; 1978-79, c. 36, s. 3.

Chief Administrative Officer Separate from Clerk

89A (1) The council may by by-law establish the office of chief administrative officer separate from that of clerk.

Chief Administrative Officer

(2) A person appointed chief administrative officer shall be appointed by resolution of the council and shall hold office during pleasure of the council.

Dismissal of Chief Administrative Officer

(3) The chief administrative officer may be dismissed by resolution of the council.

Prerequisites To Voting on Dismissal Resolution

(4) A resolution dismissing the chief administrative officer shall not be voted upon by the council unless the resolution

(a) is in writing and signed by the members of the council who intend to propose and second it;

(b) states the reason or reasons for dismissing the chief administrative officer; and

(c) has been deposited in the office of the clerk and a certified copy has been served on the chief administrative officer, either by personal service or by leaving it at his last place of abode, at least one week before the date of the meeting of the council at which it is to be considered.

Powers and Duties of Chief Administrative Officer

(5) The chief administrative officer is responsible to the council for the proper administration of the affairs of the town in accordance with the policies and plans approved and established by the council, and shall have such additional powers and duties as are determined by by-law.

Officers Accountable to Chief Administrative Officer

(6) All officers of the town are accountable to the chief administrative officer for the performance of their duties and shall submit the reports and recommendations required of them to and through the chief administrative officer. 1980, c. 49, s. 3.

Retirement of Town Clerk

90 (1) Notwithstanding the provisions of Section 89 the council shall by resolution retire from office any town clerk who has attained the age of sixty-five years or who has served as town clerk for a period of twenty-five years except where the council and the clerk mutually agree that the clerk may continue in office for a period or periods of time beyond the age of sixty-five or after twenty-five years' service.

Pension to Clerk upon Retirement

(2) Council shall pay to such Clerk upon completion of twenty-five years [years'] service and if such Clerk has reached the age of fifty-five years an annuity equivalent to fifty per cent of the salary of the Clerk averaged over the past five years of his employment, provided however, that if the Clerk has not completed twenty-five years [years'] service but has completed at least five years [years'] service and has attained the age of sixty-five years, then in that event an annuity shall be paid equivalent to two per cent of the average of the last five years [years'] salary for each year of service.

Additional Pension where Service Extended

(3) Council may, pursuant to any agreement for an extension of service as provided by subsection (1) above pay the Clerk an additional annuity upon retirement equivalent to two per cent of the average of the salary received for each year of service under such agreement.

Calculation of Years of Service

(4) In computing the years of service of the clerk, such service shall be deemed to include service by him as town treasurer, or a secretary, treasurer, or other official or employee of the town or the town school board, or of any other board, committee or commission of the town including any board, committee or commission in which the town participates.

Calculation of Pension Payable

(5) In computing the annuity payable under subsection (2) of this Section, the salary of the clerk shall be deemed to include any salary received by him as town treasurer, or as secretary, treasurer or other official or employee of the town or the town school board or of any other board, committee or commission of the town including any board, committee or commission in which the town participates.

Not Included in Calculation

(6) The salary of the clerk from a board, committee or commission shall not be included in the calculations made under subsection (5) unless the board, committee or commission contributes its share of the cost of the pension, and the board, committee or commission is hereby empowered to pay its share of the cost of any pension payable to the clerk under this Act notwithstanding the provision of any other Act and in addition to any authority so conferred upon the board, committee or commission.

Effect of Receipt of Other Pension Benefits

(7) Where a clerk retires under the provisions of subsection (1) of this Section and is eligible to receive a pension or benefits under other pension or benefit plans to which the town contributes, the town and the clerk shall mutually agree that

(a) the clerk shall draw those benefits to which he is entitled under any such plan and the town shall make up the difference between such plan and the payments as calculated under subsection (2), or

(b) both the clerk and the town shall apply for refunds of moneys paid and these refunds shall accrue to the benefit of the clerk and the town in the proportion that each had contributed.

Cost of Living Increase in Pension

(8) The council may by by-law increase the pension authorized for a clerk pursuant to this Section by an amount that is not greater as a proportion of the pension paid than the lesser of four per centum or the percentage

increase in the cost of living, as measured by the Consumer Price Index prepared by Statistics Canada, for the year preceding the date of passage of the by-law. 1973, c. 62, s. 1; 1977, c. 51, s. 5.

Security for Performance of Duties

91 (1) Every clerk shall, before entering upon or continuing to perform the duties of his office, give security for the faithful performance of his duties.

Amount of Security

(2) Such security shall be in such amount as is prescribed by the council and until the council so prescribes shall be in the amount of five thousand dollars.

Nature of Security

(3) Such security shall be a bond or policy of a guarantee company approved by the Governor in Council under the Sureties Act.

Payment of Premium for Security

(4) The premium on any such bond or policy shall be paid by the town. R.S., c. 309, s. 91.

Duties of Town Clerk

92 It shall be the duty of the town clerk:

(a) to keep all books, records and accounts of the council;

(b) to preserve and file all accounts acted upon by the council;

(c) to record in a book all resolutions, decisions and other proceedings of the council;

(d) to keep in his office or such other place as the council by by-law appoints the originals and certified copies of all by-laws of the town and of all minutes of proceedings of the council;

(e) to record, when required by any member present, the name and vote of every member voting on any matter or question;

(f) to perform, unless the council otherwise orders by by-law, the duties of treasurer, collector of school, water, county and other rates;

(g) to perform such other duties as the council from time to time requires. R.S., c. 309, s. 92.

Deputy Town Clerk

93 The town clerk may, with the concurrence of the council, appoint a deputy to perform any or all of his duties, and he shall be responsible for the acts of such deputy. R.S., c. 309, s. 93.

Right of Inspection of Records and Accounts

94 (1) The books, records, and accounts of the town council, the school board, and of any committee appointed by the town council or school board, and of the town clerk, town treasurer, secretary of the school board and clerk or secretary of any committee of the town council or school board, shall be open without fee to the inspection at all reasonable times of any person.

Financial Statements

(2) The clerk shall annually not later than the last day of February file in his office a balance sheet and a statement of revenue and expenditure of the town for the preceding year. R.S., c. 309, s. 94; 1980, c. 49, s. 4.

STIPENDIARY MAGISTRATE AND DEPUTY

Restriction on Stipendiary Magistrate

95 (1) [The stipendiary magistrate appointed by the Governor in Council for an incorporated town shall not act as a justice of the peace in the trial of civil causes under the Justices' Courts Act.]*

Deputy Stipendiary Magistrate

(2) The town council may annually appoint a deputy stipendiary magistrate to perform the duties of the stipendiary magistrate at his request or in the event of his absence from the town or of his incapacity or disqualification from any reason or cause or when the office of stipendiary magistrate is vacant and the person so appointed shall, while so acting, have all the jurisdiction and perform all the duties of stipendiary magistrate within the town.

Acting Stipendiary Magistrate

(3) When the stipendiary magistrate appointed for an incorporated town is for any reason incapacitated or disqualified and no additional or deputy stipendiary magistrate has been appointed, or if appointed, is incapacitated or disqualified, then any stipendiary magistrate in the county whether he be a stipendiary magistrate for the county or for a municipality within the

county or for an incorporated town within the county in which such town is situate, shall, when thereto requested by the stipendiary magistrate or deputy so incapacitated or disqualified and during such incapacity or disqualification, have all the jurisdiction and perform all the duties of the stipendiary magistrate so incapacitated or disqualified as aforesaid.

Restriction on Effect of Section

(4) This Section does not authorize a deputy stipendiary magistrate or a stipendiary magistrate acting pursuant to subsection (3) to exercise the jurisdiction conferred upon a magistrate by Part XVI of the Criminal Code, being Chapter 51 of the Statutes of Canada, 1953-54 [Chapter C-34 of the Revised Statutes of Canada, 1970]. R.S., c. 309, s. 95.

Solicitor or Clerk as Stipendiary Magistrate or Deputy

96 The Governor in Council may appoint the town solicitor or the town clerk to be stipendiary magistrate, and the town council may appoint the town solicitor or the deputy town solicitor or the town clerk to be deputy stipendiary magistrate. R.S., c. 309, s. 96.

Conflict of Interest

97 No stipendiary magistrate or deputy stipendiary magistrate in any incorporated town shall be disqualified from trying any cause or matter, or making any order, conviction or other proceeding therein, for any of the following reasons:

(a) that the town or any officer or servant of the town, or any member of the town council, is a party thereto or interested therein;

(b) that such stipendiary magistrate or deputy stipendiary magistrate is a ratepayer of the town, and that the issue of such cause or matter may affect the revenue to be derived by the town;

(c) that the prosecutor or plaintiff in any such cause or matter is related to such stipendiary magistrate or deputy stipendiary magistrate, provided that such prosecutor or plaintiff is acting in a public or official capacity;

(d) that any prosecutor or plaintiff in such cause or matter is indemnified by the town, or that any resolution or agreement has been passed or made by the town council, or any of its committees, providing for the indemnification of such prosecutor or plaintiff. R.S., c. 309, s. 97.

TOWN SOLICITOR

Town Solicitor

98 (1) The town council may appoint a barrister of the Supreme Court of not less than two years standing to be town solicitor, who shall, subject to subsection (3), hold office during good behaviour but who may be dismissed for cause.

Stipendiary Magistrate as Town Solicitor

(2) The town council may appoint the stipendiary magistrate, if otherwise qualified, to be town solicitor.

Deputy Town Solicitor

(3) The town council may annually appoint a barrister of the Supreme Court to be deputy town solicitor, who shall, whenever thereto requested by the town solicitor, or, in the case of absence of the town solicitor from the town, or of his incapacity or disqualification through illness, interest or otherwise, perform the duties of town solicitor.

Stipendiary Magistrate or Deputy as Deputy Solicitor

(4) The stipendiary magistrate or deputy stipendiary magistrate may if otherwise qualified be appointed deputy town solicitor.

Splitting of Offices of Magistrate and Solicitor

(5) In any case where the offices of town solicitor and stipendiary magistrate are held by the same person and the town council deems it inexpedient that such offices continue to be so held, the town council may, by resolution at a special meeting called for the purpose, declare the office of town solicitor vacant, and may at such meeting, or at any subsequent meeting, appoint another qualified person to the office of town solicitor. R.S., c. 309, s. 98.

Ex Officio Justices of the Peace

99 The town solicitor and the deputy town solicitor shall be ex officio justices of the peace within the town[; provided, however, that they shall not as such justices try civil causes under the Justices' Courts Act]*. R.S., c. 309, s. 99.

Abolition or Restoration of Office of Town Solicitor

100 Subject to the approval of the Minister the town council may at any time, by a vote of two-thirds [two thirds] of the whole council at a meeting called for that purpose, abolish the office of town solicitor, and may by majority vote of the members present at any regular meeting of the council restore such office. R.S., c. 309, s. 100.

OTHER TOWN OFFICERS

Officers

101 (1) The council shall annually at its first meeting after the annual election, and at such other time and times as it deems expedient, appoint such and so many of the following officers as it deems necessary, who shall hold office during pleasure, and may be dismissed at any time by resolution of the council, that is to say:- sanitary inspectors, superintendents of streets and of commons and of public property, firewards, fire constables, firemen, constables, fence viewers, clerks of market, measurers and weighers, surveyors and inspectors of lumber and wood, and all other officers that are necessary for the carrying out of the provisions of this Act or of any other Act of the Legislature.

Penalty

(2) Every person so appointed to any such office who without reasonable cause, refuses to enter upon the duties thereof, or is guilty of any neglect or violation of duty therein, shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Deemed Refusal To Enter Duties of Office

(3) Failure of any such person to attend and be sworn into office at the time named by the council by resolution or by-law, after he has been served with notice so to do shall be deemed a refusal to enter upon the duties of his office. R.S., c. 309, s. 101; 1978-79, c. 36, s. 4.

Resignation of Office

102 Except as otherwise provided by any Act of the Legislature, every person appointed to any office other than the office of stipendiary magistrate, may at any time, with the consent of the town council, by writing signed by him delivered to the town clerk, resign the office, whereupon the office shall become vacant. R.S., c. 309, s. 102.

TENURE OF OFFICE DURING GOOD BEHAVIOUR

Reasons for Dismissal or Suspension of Officer

102A When a council dismisses or suspends any officer, the tenure of whose office is during good behavior, it shall if the officer requests deliver to him with the notice of dismissal or suspension a statement, in writing, giving detailed reasons for such dismissal or suspension. 1969, c. 77, s. 4.

Remedy where Removed from Office or Salary Reduced

103 Any officer of any incorporated town, the tenure of whose office is during good behaviour, who is removed from office, or whose salary as such officer is reduced by the council, may within six months after such removal or reduction apply either to a judge of the county court for the county in which the town is situated, or to a judge of the Supreme Court to be reinstated in office, or to have such reduction declared void. R.S., c. 309, s. 103.

Affidavit and Summons

104 Such application shall be made on affidavit and a summons shall be issued calling upon the mayor and town council to show cause why such officer should not be reinstated, or why such reduction should not be declared void, and service of the summons on the mayor shall be sufficient service on the town council. R.S., c. 309, s. 104.

Order for Reinstatement

105 Upon the hearing of the summons, if the judge decides that the removal was without due cause, he shall make an order that the officer shall be reinstated, and such officer shall forthwith thereafter be the officer de jure of the town, and the council shall admit him to all the rights, privileges, franchise and duties thereof. R.S., c. 309, s. 105.

Dismissal of Application against Salary Reduction

106 (1) In case of a summons to declare void a reduction in salary of any such officer, if the judge determines that the reduction was made in the bona fide exercise of the discretion of the town council, and in the public interest and with due regard to the efficient performance of the duties of the officer, the application shall be dismissed.

Determination of Adequate Salary

(2) If the judge determines that the salary of

the officer before the reduction was made was excessive, he shall fix the salary at such amount as he deems adequate compensation for the service.

Order Declaring Salary Reduction Void

(3) If the judge determines that the said reduction was not made in the bona fide exercise of such discretion, or that the reduction was for the purpose of compelling or inducing the officer to resign, he shall make an order declaring void the reduction, and the salary of the officer shall continue and be held to have continued as if no such reduction had been made. R.S., c. 309, s. 106.

Appeal

107 An appeal to the Appeal Division of the Supreme Court will lie from any order or decision made or given under Sections 105 and 106 and such appeal shall operate as a stay of proceedings in respect of the order appealed from. R.S., c. 309, s. 107.

[LIST OF VOTERS]*

108 Repealed 1978-79, c. 4, s. 162.

109 Repealed 1978-79, c. 4, s. 162.

110 Repealed 1978-79, c. 4, s. 162.

111 Repealed 1978-79, c. 4, s. 162.

FINANCE

Power To Rate and Appropriate and To Pay Money

112 The council shall exclusively have power to vote, rate, collect, receive, appropriate and pay all sums of money required by the town for the following purposes, that is to say:

(a) the erecting, acquiring, purchasing, altering, adding to, improving, furnishing or equipping buildings for public schools, fire department, police office, lockups, town hall or other town purposes;

(b) the acquiring or purchasing or improving land for such buildings or for any town purpose;

(c) the laying out, opening, constructing, maintaining, improving, altering, repairing, draining, lighting, watering and cleaning of the streets, roads, lanes, sidewalks, thoroughfares, bridges, culverts, dykes, jetties and retaining walls of the town;

(ca) the acquiring, improving, developing, maintaining or operating parking lots in the town;

(d) the constructing, altering, extending, improving, repairing and cleaning of the public sewers and drains of the town;

(e) the constructing, altering, extending, improving and maintaining the water works or water system and the maintaining of the water supply of the town and the treating of the water in the said water supply chemically, electrically, mechanically or otherwise in such manner and for such purpose as the Council [council] shall determine;

(f) the equipping and maintaining of a fire department and the acquiring, purchasing, equipping, maintaining and repairing of apparatus, machinery and implements for extinguishing fires;

(g) the paying of honoraria to firemen other than those who are employed by the town as firemen on a full time basis;

(h) the purchasing, acquiring, developing, maintaining, improving and operating of public grounds, squares, parks and playgrounds of the town, and of property held by trustees for the use of the public;

(i) the supporting of the public schools of the town;

(j) the supporting and maintaining of the poor and insane paupers;

(k) Repealed 1980, c. 49, s. 5.

(l) Repealed 1980, c. 49, s. 5.

(m) the maintaining of the town courts;

(n) the paying of salaries and compensation to the officers and employees of the town;

(o) the paying of any retiring allowance or pension granted to any official or servant of the town under this or any other Act;

(p) the paying of money borrowed for the purposes of the town, and of interest on such money and of all sums required to be provided, raised or paid by the town under the Municipal Affairs Act or otherwise;

(q) the establishing, equipping and maintaining of a police office, and a police force for the town;

(r) the advertising of the opportunities of the town and the encouraging of the tourist traffic with power to make a grant to a tourist bureau for this purpose;

(s) the paying for materials, services and supplies for civil defense;

(t) the paying to a municipality of the town's proportion of the cost of such services for the benefit of the county, or for the joint benefit of the municipality and town, as are paid for by the municipality;

(u) the removing of snow from any highway or road, or making any highway or road passable in winter whether or not the highway or road is within or without the town, and including the making of any contract or agreement for any such purpose;

(v) the laying out, constructing, paving, maintaining and operating of a landing strip or airport and acquiring land necessary therefor either within, outside, or partly within and partly outside the town, and either by the town alone or by the town together with any city, other town or municipality or with Her Majesty in right of Canada or of Nova Scotia;

(w) purchasing, acquiring, constructing, altering and improving buildings for a medical centre to encourage medical doctors, dentists and other health professionals to locate in the town;

(x) the creating and paying into a special reserve fund such amounts as the council may from time to time determine for the purpose of providing for capital expenditures;

(y) **Repealed 1980, c. 49, s. 5.**

(z) **Repealed 1980, c. 49, s. 5.**

(aa) the collecting, removing and disposing of garbage, rubbish, ashes and similar material and the acquiring, building and operating of dumps, incinerators and disposal plants;

(ab) the making of all other expenditures incurred in the due execution of the powers and duties vested in or imposed upon the town, its mayor, council or officers, by this or by any other Act of the Legislature;

(ac) the paying of a grant to a mental health clinic in receipt of aid as such from the Province;

(ad) the paying of grants or contributions to a charitable organization registered as such under the Income Tax Act (Canada) and regulations made thereunder, provided however that the total of the amounts so paid in a year shall not be greater than one per cent of the amount of the taxes levied by the town for that year;

(ae) the paying for materials, services and equipment for recreational programs operated by the Town;

(af) the providing of an urban transit service within the town or partly within and partly outside the town either by the purchase of vehicles and operation of the service or by payment of a subsidy to a person who will undertake to operate the service, and either by itself or jointly with any city, other town or municipality;

(ag) the purchasing or leasing of real or personal property required for any town purpose;

(ah) carrying out agreements entered into pursuant to Section 122A;

(ai) establishing, operating and maintaining a public market and purchasing, acquiring, constructing, maintaining, altering, adding to and equipping facilities therefor;

(aj) the annual subscription fees of and the expenses of delegates to the Union of Nova Scotia Municipalities and executive meetings thereof, and the paying of expenses incidental to the holding of the annual conventions of the Union;

(ak) the provision of a homemakers service pursuant to the Homemakers Services Act. R.S., c. 309, s. 112; 1968, c. 58, s. 4; 1970-71, c. 59, s. 10; 1974,

c. 45, s. 1; 1977, c. 51, s. 7; 1980, c. 49, s. 5; 1981, c. 43, s. 1.

Tax Exemption

112A (1) The council may by resolution, grant an exemption from taxation in the town upon the property owned by a person:

(a) who is a widow or widower; or

(b) who is sixty-five years of age or over; or

(c) who is the head of a single parent family supporting a dependant within the meaning of the Income Tax Act (Canada);

where that person's total income from all sources for the year preceding the year for which the exemption is sought is below such amount as is determined by the town by resolution to the extent set out in the resolution.

Interpretation of Subsection (1)

(1A) Any allowance paid pursuant to the War Veterans Allowance Act (Canada) or pension paid pursuant to Pension Act (Canada) is not to be included in a person's total income for the purpose of subsection (1).

Affidavit

(2) The clerk may require a person applying for an exemption to make an affidavit regarding his income in the year preceding the year for which the exemption is sought.

Residence Requirement

(3) The resolution may specify that the exemption shall only extend to persons who are residents of the town.

Two or More Owners

(4) The resolution may specify that where two or more persons, one or more of whom are entitled to an exemption, are by any interest the owners of taxable property together, the person so entitled shall be entitled only to that portion of the amount of the exemption that the amount of his assessment with respect to the property bears to the total assessment for the whole property, and where the owners are not separately assessed for their several interests in the property, then to that portion determined by the assessor, whose determination shall be final.

Exempt Property

(5) The resolution may specify that the exemption shall apply only to property of a ratepayer occupied by him as his home.

Included in Income

(6) The resolution may specify that the amount of income specified in the resolution includes the income of all other members of the same family residing in the same household.

Time Limit on Application for Exemption

(7) The resolution may specify a date after which no application for an exemption will be received, provided that the date set is not less than twenty-one days after the filing of the assessment roll with the clerk. 1976, c. 4, s. 2; 1977, c. 51, s. 8; 1981, c. 43, s. 2.

Prescribing of User Charge for Services

112B Subject to the approval of the Board of Commissioners of Public Utilities for those services that are subject to the Public Utilities Act, the council may by by-law prescribe charges for the provision of services for persons who use or benefit from the service on a basis to be set out in the by-law. 1978, c. 29, s. 1; 1978-79, c. 36, s. 5.

Special Reserve Fund

113 (1) Notwithstanding any other provision of this Act, the Council [council] may provide for a special reserve fund into which may be paid or credited all or any part of any surplus of the town and all or any part of any surplus in respect of the present or any subsequent year, and any amount voted, rated, collected, received, appropriated or paid into the fund pursuant to clause (x) of Section 112.

Withdrawal from Fund

(2) No money shall be withdrawn from such special reserve fund except for a capital expenditure and with the consent in writing of the Minister.

Required Payments into Fund

(3) If any money is paid to a town,

(a) under any fire or other insurance as a result of loss or damage to or destruction of property, either of the town itself or of the town jointly with any person, municipality, other town, or city; or

(b) from the sale or mortgage of property;

it shall be paid into a special reserve fund, unless the property is one which has been vested in the town under the Assessment Act. R.S., c. 309, s. 113.

Equipment Reserve Fund

114 (1) The Council [council] may create, continue or provide for an Equipment Reserve Fund [equipment reserve fund] into which may be paid or credited such sums of money as the council deems proper to provide for depreciation and obsolescence of motor vehicles, machinery and office or other equipment of any kind and for the purchase of new motor vehicles, machinery and office or other equipment of any kind.

Use of Fund

(2) An Equipment Reserve Fund [equipment reserve fund] shall be used only for the purchase of motor vehicles, machinery and office or other equipment and no money shall be withdrawn from it except by resolution of the council. R.S., c. 309, s. 114.

Deposit and Investment of a Fund

115 (1) Any sum standing to the credit of a depreciation reserve fund of a public utility owned, operated, managed or controlled by the town either directly or through the medium of a board or commission, a special reserve fund, an equipment reserve fund, a surplus reserve account, or any other fund established by a town may be

(a) deposited in an interest bearing account at a chartered bank doing business in the Province;

(b) paid to a trust company authorized to do business in the Province, which company shall hold the sums in trust for the town and may invest the same; or

(c) invested by the mayor and clerk in investments in which a trustee is permitted to invest pursuant to the Trustee Act.

Pledging of Collateral Security for Borrowing

(2) With the consent of the Minister the council may pledge to any chartered bank in the Province, as collateral security for a borrowing by said council for a purpose authorized by Section 5 of the Municipal Affairs Act, any investment or security held to the credit of a special reserve fund.

Investment Income Is Part of Fund

(3) The income arising from the investment from all or any part of a fund, becomes part of that fund, unless the Act authorizing the creating of the fund otherwise provides. R.S., c. 309, s. 115; 1980, c. 49, s. 6.

Operation of Sewer or Waterworks outside Town Limits

116 (1) A town may extend, construct, alter, improve, maintain and operate its public sewers and drains, or its waterworks and water system, or both, outside its limits and in any municipality other than a city or another incorporated town, and may acquire or purchase land, buildings, materials, machinery, implements and plant deemed requisite or advisable therefor and may enter into contracts to supply such services.

Sewer or Water Rates

(2) The town may charge and collect charges, rates or fees for the supply of water or for the use of its drains or sewers in the same way as it could in the case of similar services within the town; the rates in the case of a water system shall be those approved by the Board of Commissioners of Public Utilities and in the case of +[a] sewer or drainage system shall be those fixed by by-law pursuant to clause (5) of Section 221. R.S., c. 309, s. 116; 1980, c. 49, s. 7.

Duty To Lay Annual Assessment Roll before Council

117 (1) The annual assessment roll as finally passed by the assessment appeal court and certified by the clerk shall be laid before the council at its next regular meeting.

Annual Estimate

(2) The council shall make estimates of all sums which are required for the lawful purposes of the town for the then current year after crediting the probable revenue from all sources other than rates for the year and making due allowance in such estimates for the abatement and losses which may occur in the collection of the rates and taxes and for rates and taxes for the current year which may not be collected or collectible [collectable].

Inclusion of Deficit of Preceding Year

(3) The council shall include in its estimates the deficit from any preceding year.

Inclusion of Contingency

(4) The council may include in its estimates an amount for contingencies and unforeseen expenses in matters as to which it may vote and expend money.

Inclusion of Surplus from Preceding Year.

(4A) The council may include in its estimates an amount for all or part of any surplus of any previous year that will be available for the current year.

Authorization of Rate

(5) The council shall authorize the levying and collecting of a rate of so much on the dollar on

(a) the full assessed value of taxable commercial property and business occupancy assessment; and

(b) such percentage of the assessed value of taxable residential and resource property not exceeding one hundred per cent as council may determine.

Amount of Rate

(5A) The rate shall be that which the council deems sufficient to raise the sum so estimated to be required to defray the expenditures of the town for the then current year.

Time of Authorization of Rate

(6) Notwithstanding the provisions of subsection (1), the council may authorize the rate pursuant to this Section either before or after the annual assessment roll has been passed by the assessment appeal court and, in doing so, may make an allowance in the total assessed value shown on the roll to provide for any variation in that value which may result from any assessment appeal.

Interpretation of Section

(7) In this Section the expressions +["] business occupancy assessment +["], "commercial property", "residential property" and "resource property" have the same meaning as in the Assessment Act and Section 1A of said Assessment Act is incorporated herein as if set out a seriatim. R.S., c. 309, s. 117; 1976, c. 4, s. 3; 1977, c. 51, s. 9.

Borrowing To Defray Annual Current Expenditure

118 (1) The town council may in the name of the town, from time to time, effect temporary loans from any chartered bank in the Province, for the purpose of defraying the annual current expenditure of the town which has been

duly authorized by the council, and the interest on such loans shall be provided for in the annual estimates.

Maximum Amount of Loan

(2) Such loan or loans shall not in the aggregate at any time exceed an amount equal to fifty percentum [per centum] of the combined total of the taxes levied by the town for the previous year and the amounts received or to be received by the town from Her Majesty, the Queen in the right of Canada or in right of the Province of Nova Scotia or from an agency of Her Majesty; provided, however, that such loan or loans shall not in any case exceed in the aggregate the amount of taxes levied for the current year.

Suspension of Borrowing Power

(3) When the amount authorized by this Section is borrowed the power to borrow shall cease until the said loans have been reduced, when the power may again be exercised to the limit stated. R.S., c. 309, s. 118; 1970-71, c. 59, s. 11; 1978, c. 29, s. 2.

Pension By-law

119 (1) The council shall have the power to make pension by-laws for providing pensions for one or more full time employees or any class thereof in such manner as the council may determine.

Provision for Payment of Pension

(2) A pension by-law may provide that the pensions shall be provided by payments from the current revenues of the town, by arrangement with Her Majesty pursuant to the Government Annuities Act (Canada), by contract with an insurer authorized to do business in the Province, by concert or arrangement with the Province, or otherwise.

Prescribing Who Is Employee

(3) A pension by-law may prescribe who shall be an employee within the meaning of the by-law provided that school teachers shall not be included in the by-law.

Application of By-law

(4) A pension by-law may apply to full time employees of any school board, board or commission operating a public utility, or any other board, commission, committee, body or local authority established by the town or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of the town, or any of them.

Provision for Annual Increase in Pension

(5) A pension by-law may provide for annual increases in the pensions paid pursuant to the by-laws, provided that the increases shall not exceed the lesser of four per cent and the percentage increase in the cost of living in the preceding year as measured by the change in the Consumer Price Index for Canada prepared by Statistics Canada. 1980, c. 49, s. 8.

Deduction from Salary

119A (1) The town may deduct or provide for the deduction by instalments from the salary, wages or other remuneration of every employee to whom a pension by-law applies the amount which the employee is required to contribute pursuant to the by-law.

Contribution by Employer

(2) A pension by-law may provide for payments or contributions to be made by the town, board, commission, committee, body or local authority, as the case may be.

Town Purpose

(3) The payments or contributions required pursuant to a pension by-law shall be amounts required for the ordinary lawful purposes of the town, board, commission, committee, body or local authority, as the case may be. 1980, c. 49, s. 8.

Payment of Proportion of Joint Municipal Expense

120 (1) The town shall pay its proportion of the expenses incurred by a municipality for the benefit of the county, or for the joint benefit of such municipality and any city, town or other municipality, and other expenses made chargeable upon or payable by such cities, towns and municipalities jointly to the treasurer of the municipality which incurs or has assumed the payment of the expenses, in four equal quarterly installments [instalments] on the last day of March, June, September and December in each year.

Interest on Overdue Instalment

(1A) Where an instalment is not paid when due, the town shall pay interest in the amount paid by the municipality to finance the unpaid instalment.

Determination of Proportion Payable

(2) The proportion to be borne by each city, town and municipality shall be determined in the manner provided by the Assessment Act. R.S., c. 309, s. 120; 1980, c. 49, s. 9.

Town Not Subject to Municipal Council

121 The town shall not be in any way subject to the jurisdiction of the municipal council, nor shall the inhabitants of the town be assessed for county rates of any kind whatsoever except as in Section 120 provided. R.S., c. 309, s. 121; 1980, c. 49, s. 10.

Agreement Entered before Passing of Act

122 All agreements entered into before the passing of this Act between any incorporated town and the municipality of the county or district of which such town before incorporation formed part, shall continue to have the same force and effect as at the time of the passing of this Act subject to change from time to time by the same authority and in the same manner as if this Act had not been passed. R.S., c. 309, s. 122.

Housing Agreement

122A Subject to the approval of the Minister of Municipal Affairs, the council may make, enter into and carry out agreements relating to projects under the National Housing Act (Canada) with Central Mortgage and Housing Corporation [Canada Mortgage and Housing Corporation], the Nova Scotia Housing Commission, or any other body corporate having similar objects. 1977, c. 51, s. 10.

Approval of Legislation that Authorizes Expenditure

123 (1) No town council shall apply to the Legislature for authority to make any expenditure or assume any liability not authorized by law unless approval of the making of such application has been given by the voters of the town.

Method of Approval

(2) Such approval may be given

(a) at a public meeting of the voters of the town called for the purpose; or

(b) if the council so determines by by-law, by a plebiscite of the voters taken for the purpose.

Entitlement To Vote and List of Voters

(3) For the purpose of taking a vote pursuant to this Section,

(a) all persons entitled to vote in an election for mayor of the town shall be entitled to vote;

(b) the list of voters shall, unless the council otherwise determines by resolution, be the list of electors used at the last regular or special election in the town; and

(c) a person who is qualified to vote but whose name does not appear on the list may be added to the list in the manner prescribed by the Municipal Elections Act at the time of the taking of the vote. R.S., c. 309, s. 123; 1968, c. 58, s. 5; 1976, c. 4, s. 4; 1977, c. 51, s. 11; 1980, c. 49, s. 11.

Procedure where Meeting of Voters

124 (1) Where a meeting of the voters is to be held for any of the purposes mentioned in this Act or any other Act of the Legislature, the following provisions shall apply:

(a) the meeting shall be called by a notice conspicuously posted in several public places in the town and by an advertisement in a newspaper published in the town, if any newspaper is published therein;

(b) the town clerk shall summon the meeting by publication of the required notices in accordance with the resolution of the council, and the voting at the meeting shall be in accordance with the by-laws of the town;

(c) where a resolution approving of the proposed application is submitted to the meeting and is adopted by a majority of the voters present at such meeting, the town clerk shall forthwith send a certified copy of the resolution to the Minister, together with a statement of the result of the vote.

Procedure for Plebiscite Respecting Election

(2) Where a plebiscite of the voters is to be held it shall, unless the council otherwise determines by resolution, be held in conjunction with a regular or special election in the manner provided by the Municipal Elections Act.

Plebiscite Other than in Conjunction with Election

(3) Where the council determines by resolution that a plebiscite of the voters is to be held other than in conjunction with a regular or special election, it shall be held in the manner provided by the Municipal Elections Act

for the conduct of a special election, and the lists of voters shall, unless the council otherwise determines by resolution, be the lists of electors used in the last regular or special election in the town. R.S., c. 309, s. 124; 1968, c. 58, s. 6; 1976, c. 4, s. 5; 1977, c. 51, s. 12; 1978, c. 29, s. 3; 1978-79, c. 36, s. 7; 1980, c. 49, s. 12.

AUDITORS

Auditor

125 (1) The council shall annually at the first meeting after the annual election or as soon thereafter as practicable, appoint an auditor or auditors for the town who shall also be the auditor or auditors for the board of school commissioners for the town, for a Regional School Board [regional school board] administering a regional school located in the town and for every other board or commission owning, operating or managing on behalf of the town any public utility services, or any health services.

(2) **Repealed** 1982, c. 9, s. 34.

R.S., c. 309, s. 125; 1982, c. 9, s. 34.

Fiscal Year

126 The financial year of the town shall end on the thirty-first day of December. R.S., c. 309, s. 126.

Report of Auditor

127 (1) The auditor or auditors shall make a report signed by him or them to the council on all accounts and funds administered by the council and on all accounts and funds of every board and commission for which he is auditor under subsection (1) of Section 125, and on all accounts and funds of which the council has control, notwithstanding that said accounts or funds may be administered for or on behalf of the council by a commission, committee or board, and such report shall include for every account and fund

(a) a statement of revenue or income as the case may be, and of expenditure;

(b) a revenue fund balance sheet;

(c) a capital and loan fund balance sheet;

(d) a continuity of revenue fund surplus or deficit account and continuity of capital and loan fund surplus or deficit account; and

(e) such other information as may be required by law or by the council.

Accompanying Certificate

(2) The auditor or auditors shall sign and attach to their statements and reports a certificate which shall state

(a) whether they have obtained all the information and explanations they have required; and

(b) whether in their opinion after diligent inquiry the balance sheets and statements of revenue or income and expenditure and other statements are properly drawn so as clearly to exhibit a true and correct view of the position and affairs of the town and of the board, committee or commission as the case may be, according to the best of their information and the explanations given to them and as shown by the books and records of the town, commission, committee or board.

Filing of Report

(3) He shall file such report not later than the last day of February of the year following that to which the report relates, but the council may by resolution require him to file it at such earlier date as it may determine, and thereafter one copy shall be open to the inspection of any ratepayer during office hours and he may by himself or his agent, at his own expense, make a copy thereof or extracts therefrom.

Publication of Report

(4) Such report shall be published in such form as the council directs within two weeks after it is so filed.

No Removal of Records from Office of Clerk

(5) The auditors shall not remove any books, vouchers, or accounts from the office of the town clerk or treasurer.

Examination of Joint Municipal Expenditures

(6) It shall be the duty of the auditors, if required by the town council, to examine and report upon the accounts of all expenses incurred by a municipality for the joint benefit of such municipality and the town, and for that purpose the auditors shall have access to all books, vouchers and papers of the municipality relative to such expenses.

Access to Books and Information of Town

(7) Every auditor shall have free access at all times to the books and accounts and vouchers of the town and shall be entitled to require from the officers of the town such information and explanation as may be necessary for the performance of his duty as auditor.

Access to Books and Information of Agencies and Boards

(7A) Every auditor and the clerk or a person designated by him in writing shall have free access at all reasonable times to the books and accounts and vouchers of all boards, agencies, commissions and other bodies financed in whole or in part out of the revenues of the town, or to which the town has lent money, or of which the debentures or other borrowings have been guaranteed by the town, or of which the town has the power or duty to absorb its deficit, or which have been established to carry out one or more of the powers and duties of the town, and shall be entitled to require from its members or officers full information and explanation.

Remuneration of Auditor

(8) The auditors shall be paid for their services such compensation as the council from time to time determines.

Disqualification of Auditor

(9) No person who at any time during the year in which such auditors are appointed is or has been a member of the council, or a contractor with or officer appointed by the council (other than an auditor), shall be appointed as such auditor. R.S., c. 309, s. 127; 1978-79, c. 36, s. 8.

Passing of Accounts

128 (1) The town council shall, upon the report of the auditors, finally pass and allow the accounts of the town clerk and treasurer, if the same are found to the satisfaction of the town council to be correct.

Publication of Financial Statement

(2) Upon such accounts being passed and allowed as aforesaid the council shall publish or cause to be published the balance sheet and the statement of revenue and expenditure of the town for the year under review. R.S., c. 309, s. 128.

SCHOOLS

School Section and School Board

129 The town shall be a separate school section, and the control and management of the public schools of a town that is not located within an area designated pursuant to the Education Act as a school district shall be vested in a board of commissioners, which shall be or continue to be a body corporate and which shall, subject to this Act, have the powers and perform the duties conferred and imposed upon district school boards by the Education Act. R.S., c. 309, s. 129; 1982, c. 47, s. 2.

130 Repealed 1978, c. 13, s. 28.

131 Repealed 1978, c. 13, s. 28.

132 Repealed 1978, c. 13, s. 28.

Remuneration of Commissioners

133 The commissioners may be paid by the Board such remuneration as the Board by resolution determines but the amount so paid shall not exceed the salary or remuneration paid to councillors pursuant to subsection (3) of Section 18. R.S., c. 309, s. 133.

Powers and Duties of Board of Commissioners

134 The board of commissioners shall, subject to the Education Act, have the exclusive control amd [and] management of the public schools of the town, and shall have the management and control of the school buildings, including the maintenance and repair thereof; they may appoint and dismiss teachers and employees for such schools and shall make all necessary regulations for the management and government of such schools. R.S., c. 309, s. 134.

135 Repealed 1982, c. 47, s. 3.

136 Repealed 1982, c. 47, s. 4.

Chairman and Vice-Chairman of Board

137 (1) The members of the board shall at its first meeting in December in each year choose a chairman and a vice-chairman from among their number.

Powers and Duties of Vice-Chairman

(2) The vice-chairman shall, during the absence or incapacity of the chairman, have and exercise the power and authority and discharge the duties of the chairman.

Clerk and Treasurer of Board

(3) The town clerk shall be clerk and treasurer of the board. 1980, c. 49, s. 14.

Annual Estimate of Board

138 (1) The board shall, before the thirty-first day of October in any year, furnish the town council with an estimate of all sums required for the purposes of the board for the immediately following year, including any deficit from the current year.

To Be Included in Town Estimates

(2) The town council in preparing its estimates and making its annual rate under Section 117 shall provide for

(a) the minimum municipal contribution payable pursuant to the Education Act; and

(b) any additional amount requested by the school board and approved by the council.

Area Rate

(3) The council shall levy by an area rate the sums required to be raised by an area rate pursuant to the Education Act. R.S., c. 309, s. 138; 1970-71, c. 59, s. 12; 1977, c. 52, s. 1; 1980, c. 49, s. 15; 1982, c. 47, s. 5.

Payment by Town to Board

139 The town council shall from time to time on the requisition of the board pay over to the board the sums mentioned in Section 138. R.S., c. 309, s. 139.

Not To Be Included in Board Estimates

140 The estimate furnished by the commissioners as provided in Section 138 shall not include any expenditure for the construction of new buildings, the purchase of land nor expenditure for repairs or improvements of an extraordinary nature. R.S., c. 309, s. 140.

Payments by Board

141 (1) The treasurer of the board shall, upon the order of the chairman, pay out from time to time all such

sums as are ordered, and all checks [cheques] drawn for money payable for school purposes shall be signed by the town clerk and countersigned by the chairman.

Maximum Total Payments by Board

(2) The total of the sums so paid out shall not without the approval of the town council exceed the revenues of the board from all sources, including grants from the Province and the amount provided by the town council. R.S., c. 309, s. 141; 1980, c. 49, s. 16.

Borrowing by Board

142 If the town council refuses or neglects to make provision for or pay over to the board the sums included or required to be included in its estimates under Section 138, or if the board requires any portion of such sum before the same is realized from the annual rates, the board may borrow such sum, or so much thereof as is so refused or withheld, or is so required, from any bank or person who will advance the same, and the amount so advanced may be recovered by the lender in an action against the town for money paid. R.S., c. 309, s. 142; 1977, c. 51, s. 13; 1978-79, c. 36, s. 9.

143 Repealed 1978-79, c. 36, s. 10.

HEALTH

Health Orders and Regulations

144 (1) The town council, in addition to the powers conferred upon or appertaining to boards of health by or under the Health Act or by or under any other law in force in that behalf, shall have power to make sanitary orders, rules and regulations in relation to any of the following classes of subjects, that is to say:

(a) for the prevention or mitigation of any infectious, epidemic, endemic or contagious disease prevalent in the town, in such manner as is deemed expedient;

(b) for supplying accomodation [accommodation], medical aid and medicines and such other articles as are deemed necessary;

(c) for domestic quarantine, and for preventing the admission of persons to, or the departure of persons from, any infected building, house or place within the town, and for detaining persons or things, and closing up shops, dwellings and buildings that have been exposed to infection, for inspection and disinfection, until the danger of infection is passed;

(d) for the cleansing, purifying, ventilating and disinfecting of dwellings, hotels, schools, churches, public buildings and places of assembly, and carriages, cars and boats, and conveyances, coming into or landing passengers in the town by the owners, occupiers or agents or persons having charge of the same;

(e) for the reporting of all cases of disease, and the interment of the dead, and the conduct of funerals;

(f) for the cleansing of public and private buildings, yards and outhouses, by the owners, occupiers, tenants or agents of the same;

(g) for the removal of nuisances, or anything declared by the council to be detrimental to the public health;

(h) for the establishment, management and maintenance of a hospital for infectious diseases, the isolation of patients suffering from infectious diseases and their removal to and detention in such hospital;

(i) for the appointment of sanitary police, to be paid by the town, for the purpose of carrying out and enforcing the regulations and orders of the board of health;

(j) for the doing of any work, act, matter or thing at the cost and expense of any person or corporation who has been ordered or required by the board of health to do the same and has neglected or refused to do so, and for collecting and recovering the amount so expended by distress and sale of the goods or property of the person or corporation so neglecting or refusing, or by action at law, or otherwise.

Offence and Penalty

(2) Every person who violates any such order, rule or regulation is guilty of an offence and shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Effective Date and Duration of Orders and Regulations

(3) Such rules, orders and regulations shall come into force immediately upon being made, and shall remain

in force until disapproved of by the Governor in Council, or repealed or altered by the town council. R.S., c. 309, s. 144; 1977, c. 2, s. 11; 1978-79, c. 36, s. 11.

Rabid Animal at Large

144A Any person may kill or destroy any rabid dog or other rabid animal found at large, and may secure and place in confinement all dogs or other animals at large and appearing to be rabid or exhibiting symptoms of canine madness. 1977, c. 51, s. 14.

PUBLIC STREETS

Certain Public Property Vested in Town

145 All public streets, roads, lanes, sidewalks, thoroughfares, bridges, squares, parks and public grounds, all public sewers, drains and ditches, and all public wells in the town, are hereby vested absolutely in the town, and insofar [in so far] as is consistent with their use by the public the council shall have full control over the same. R.S., c. 309, s. 145.

Committee on Streets

146 (1) The town council shall annually appoint from among its members a committee on streets.

Town Engineer in Lieu of Committee

(2) The town council may in lieu of the committee on streets appoint a town engineer who shall exercise and perform all the powers and duties by this Act vested in or imposed upon the committee on streets and such other powers and duties as the council may from time to time prescribe.

Term of Office of Town Engineer

(3) The town engineer shall hold office during pleasure and may be dismissed in any year by resolution of the council.

Town Clerk as Town Engineer

(4) The offices of town clerk and town engineer may be combined in one person. R.S., c. 309, s. 146.

Investigating Dispute over Street Line or Encroachment

147 (1) Where the committee on streets deems a street encroached upon or encumbered, and in all cases where a doubt or dispute exists as to the true line of a street, or as to which side is encroached upon, such committee, after ten days notice in writing to the persons in possession of the land on both sides of the street where the line is in dispute, or to the persons who have caused the encroachment or encumbrance, shall investigate the matter, and inquire into the facts, and if necessary may then or at a future day have a survey made of the street, and may examine witnesses on oath, to be administered by any member of the committee, touching the matter.

Order of Committee on Streets

(2) Such committee shall determine and mark out the true line of the street and direct the same to be opened to the full width of sixty-six feet, or to any greater or less width to which it has been extended or confined by its dedication, and shall by order in writing direct and cause all encroachments or encumbrances to be removed to such distance as they determine.

Where Erected Building Encroaches upon Street

(3) Such committee shall not, however, cause to be removed any building permanently erected upon the street; but where such building is found to encroach upon the street, they shall report the same to the next meeting of the council, and the council shall make such order with respect thereto as is deemed proper. R.S., c. 309, s. 147.

Penalty

148 (1) Every person who neglects or refuses to obey the order of the committee on streets or of the town council within thirty days after receiving the order in writing shall for each offence be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Separate Offence

(2) Every day the encroachment or encumbrance is allowed to continue after thirty days following receipt of the order shall be a separate offence. 1978-79, c. 36, s. 12.

Expenses Incident to Proceedings

149 (1) The committee on streets may apportion and order the payment of the expenses incident to such proceedings among and by such persons as seems to it just, and the same shall be recoverable as a debt due the town.

Copy of Order Is Evidence

(2) In any proceeding under this Section or Sections 147 and 148 the production of a copy of the order of the committee on streets under their hands, or of the order of the town council under the hand of the clerk, shall upon proof of the handwriting be evidence of the order, and

of the proceedings on which the order was granted. R.S., c. 309, s. 149.

Record of Committee Investigations and Orders

150 The committee shall cause to be kept a record of every investigation and order made by them, containing the lines of streets by them established, and such record shall be signed by them and returned to the town clerk to be filed in his office. R.S., c. 309, s. 150.

Appeal

151 (1) Any person dissatisfied with the order of the committee on streets or of the town council may appeal therefrom to the next sittings of the Trial Division of the Supreme Court in the county in which the town is situated and pending the appeal no further proceedings shall be taken for the enforcement of such order.

Costs of Appeal where Order Confirmed

(2) If the Court confirms the order, the costs of appeal shall be paid by the appellant, and shall be recoverable by execution.

Costs of Appeal where Order Set Aside or Reversed

(3) If the order is set aside or reversed on appeal the cost of the appeal, as well as the expenses incident to the making of the order shall be paid by the town and shall constitute a charge upon the town. R.S., c. 309, s. 151; 1972, c. 2, s. 9.

Duty of Person Proposing To Build Near Street Line

152 (1) Every person proposing to build upon or close to the line of the street shall, before digging the foundation, or commencing the building, apply to the town council to have the line of the street at that place defined and laid out, and shall dig the foundation and erect the building wholly within that line.

Penalty

(2) Every person who erects a building, or begins digging the foundation, or commences building on the line of any street without making such application and having the line so ascertained and who encroaches on the street, shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Removal of Encroachment

(3) Such person shall, upon being required to do so by the council forthwith remove the encroachment; and

upon failure to do so within ten days of such requirement the council or the committee on streets may cause the same to be removed at the expense of such person, or take such other proceedings as are deemed proper. R.S., c. 309, c. 152; 1978-79, c. 36, s. 13.

Prerequisites for Moving Building over Street

153 (1) No person shall move any building upon or over a public street without the permission of the committee on streets or the town council, and the payment of such sum for the privilege as the committee on streets or the town council determines.

Penalty

(2) Every person who violates this Section shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act. R.S., c. 309, s. 153; 1978-79, c. 36, s. 14.

Penalty for Deposit of Material in Public Place

154 (1) Every person who piles, deposits or places on any road, street, sidewalk, lane, river bank [river-bank], or other public place in the town, any manure, compost, earth, wood, lumber or other substance or material whatsoever, shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Separate Offence

(2) Every twenty-four hours that such manure, compost, earth, wood, lumber or other substance or material remains piled, deposited or placed on such road, street, lane or public place of the town shall be a separate offence. R.S., c. 309, s. 154; 1978-79, c. 36, s. 15.

Penalty for Preparing Lime in Street or Public Place

155 Every person who slacks, riddles, mixes with sand or otherwise prepares lime in any road, street, or lane or other public place of the town, without the written permission of the superintendent or committee on streets, and if there is no such superintendent or committee, then of the town clerk, shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act. R.S., c. 309, s. 155; 1978-79, c. 36, s. 16.

Using Street while Erecting or Repairing Building

156 Any person building or repairing a house or other building in the town may be permitted to use and occupy, for such time as the council, committee, or superintendent of streets deems necessary, a space of ten feet in width

from the line of the street towards the centre, and extending the length of the house or building so being erected or repaired, for the purpose of piling lumber, stone, brick, sand or lime, and for mixing lime and sand, or doing such other work as is necessary for the erection or repair of the house or building, provided he encloses the portion of the street so used and occupied by a substantial fence, and also provides a suitable path or sidewalk at least two and one-half feet in width around the fence, and keeps the same lighted from sunset to sunrise. R.S., c. 309, s. 156.

Penalty for Obstruction of Street or Sidewalk

157 (1) Every person who encumbers or obstructs any street, thoroughfare, sidewalk, lane or path of the town, by exposing for sale, unpacking or suffering to remain upon such street, thoroughfare, sidewalk, lane or path any article or thing whatsoever, for a longer time than is reasonably necessary for the transfer of such article or thing to or from a building or place of business shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Separate Offence and Penalty

(2) The continuance of any such encumbrance or obstruction for one hour after notice given by the mayor or a councillor or any policeman or constable to remove the same shall be deemed a new offence, and for every additional hour it so continues the person so encumbering or obstructing shall be liable to the like penalty. R.S., c. 309, s. 157; 1978-79, c. 36, s. 17.

LANDS ABUTTING UPON STREETS

Depriving Land Abutting Street of Lateral Support

158 (1) No proprietor, owner, occupant or other person in any way interested or having any claim, right or property to or in any land abutting upon any street or lane within the town, shall be entitled to any compensation from, or be entitled to maintain any action, prosecution, or other proceeding against the town or any officer or servant thereof, or any person acting under the authority of the town or its officers, by reason of any operations upon a street having deprived such land of lateral suppor'

Removing Earth from Street To Grade It or Clear Debris

(2) The town council and the superintendent of streets and committee on streets and all persons acting under the authority of any of them, may cut away and remove from the street, up to the extreme limit thereof, so much of the earth, stones and other material, as +[is] in their

judgment necessary for the proper grading of the street, and may from time to time, and as often as is necessary, remove from the street all earth, stones or debris of all kinds that fall upon the street from the adjacent land; provided, however, that when the earth, stones and other material of a street are cut away and removed up to the extreme limit thereof, the town shall, at its own expense, build and maintain a sufficient retaining wall on the lands of the adjacent proprietor, to prevent the adjacent land from falling upon the street.

Right of Entry To Build or Repair Retaining Wall

(3) For such purposes the town shall have the right as often as is necessary, and to that extent only, to go upon such lands, and cut away the earth and soil to such extent as is necessary for the construction and repair of such walls. R.S., c. 309, s. 158.

Raising Level of Street

159 The town council, and the committee on streets and the superintendent of streets, and all persons acting under the authority of any of them, may from time to time, and as often as is necessary, build up and raise the surface of any street within the town, to the extreme limit of such street, provided that in all cases where a street is so raised a suitable retaining wall shall be built wholly upon the street, if such wall is necessary to prevent debris from the street from falling upon the adjacent land. R.S., c. 309, s. 159.

FENCES

Fencing of Lot Abutting Street

160 (1) The owner or occupier of every lot abutting on any street, lane, road, or other highway within the town, shall fence in the same within ten days after receiving notice to that effect from the town council and shall keep and maintain such fence in repair to the satisfaction of the committee on streets or council.

Composition and Manner of Fencing

(2) Every such fence shall be erected or constructed of such material and in such manner as is approved by the committee on streets or council.

Penalty

(3) Every person who violates this Section shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act, and both the owner and the occupier of the lot shall be deemed to be guilty of the

violation and are both liable upon summary conviction to the penalty so prescribed.

Fences on New Street

(4) When a new street is hereafter laid out, opened or dedicated, the owners and occupiers of the land abutting on such street shall, if required by the town council, build, erect and maintain fences along the line of such street opposite their respective lots. R.S., c. 309, s. 160; 1978-79, c. 36, s. 18.

Failure to Erect or Maintain Fence

161 Where notice has been given as provided in Section 160 and such fence has not been erected or maintained as required by this Act, or when it would in the opinion of the committee on streets or of the town council be dangerous to leave such property unfenced for such period of ten days, the committee on streets or the town council may cause a fence to be erected or repaired, and charge the expenses of so doing to the owner or occupier of the lot, and the same may be collected with costs, from such owner or occupier in an action at the suit of the town. R.S., c. 309, s. 161.

LAYING OUT AND MAINTENANCE OF STREETS

Constructing and Maintaining Streets and Public Grounds

162 The town council shall have power to lay out, open, construct, maintain, improve, alter, repair, light, water, clean and stop up the streets, roads, lanes, sidewalks, thoroughfares, bridges, squares, parks and public grounds, as the council deems necessary or expedient, and for such purposes, and also for obtaining materials for carrying out any such purposes, may, when necessary or expedient, enter upon and take any land required, and remove any buildings, projections, walls, fences or other things, or any portion thereof. R.S., c. 309, s. 162.

Underground Electrical Distribution System

163 (1) Whenever the council determines that the wiring and other parts of an electrical distribution system in all or any part of a town be placed underground and the Board of Commissioners of Public Utilities has approved the proposal subject to the condition that some person other than the owner of the system make a contribution to the cost of so doing, the council shall have power to pay all or part of the contribution.

Tax To Recover Contribution to System

(2) The council may recover all or part of the amount contributed by it under subsection (1) by a tax

imposed under the authority of clauses (6) and (8) of Section 221. R.S., c. 309, s. 163.

Procuring Material from Shore for Section 162 Purpose

164 (1) When the council deems it necessary or expedient to procure material from the seashore or from the shore of lakes or harbours for any of the purposes mentioned in Section 162, and no agreement can be made with the owner of the shore or adjacent land, the superintendent of streets may enter, cross over any unimproved lands with workmen [workers], teams or trucks and dig and carry away such material.

Transporting Material from Shore

(2) The superintendent may also take and transport by boat or otherwise such material to convenient landing places, and may with workmen [workers] and teams or trucks enter upon or cross over any unimproved lands adjacent to such landing places for the purpose of taking and transporting such material from such landing places to the public streets.

Damages

(3) Any damage suffered by the owner of said material or adjacent lands shall be appraised by three disinterested ratepayers to be named by the stipendiary magistrate for the town for the purpose and the sum appraised shall, if demanded, be paid by the town within three months after the appraisement; the cost of such appraisement shall be paid by the town.

Application of Section

(4) This Section shall apply to lands and material within the municipality of which the town formerly formed a part to the extent of one-half mile beyond the town line. R.S., c. 309, s. 164.

Survey Plan of Proposed Street or Park Required

165 When it is proposed by the town council to lay out, open, or construct a street, road, lane or other thoroughfare or a public square or park or to improve or alter any street, road, lane or other thoroughfare, the council shall cause a survey and plan thereof to be made, and the plan when completed shall be filed in the office of the town clerk. R.S., c. 309, s. 165.

Minimum Width of Street

166 (1) The town council, except as in this Act

otherwise provided, shall not lay out, open or construct nor accept the dedication of any street which is less than fifty feet in width.

Prerequisites To Expending Money on Street

(2) Except in respect of streets dedicated to or owned by the town previous to the sixteenth day of April, 1888, and streets on which at the date of the incorporation of the town statute labor [labour] was performed or public moneys expended, no portion of the revenues of the town shall be paid out or expended on any street unless:

(a) the street is not less than fifty feet in width; and

(b) the lines of the street are approved by the town council. R.S., c. 309, s. 166.

Acceptance of Narrow Street

167 The town council may lay out, open or accept the dedication of any street already opened up and built upon by private parties and in use by the inhabitants of the town, where in its opinion great damage would be done to adjoining property by taking the full width of fifty feet. R.S., c. 309, s. 167.

Prerequisites to Public Street on Private Property

168 (1) No person shall lay out, open, or construct for public use any street over or on his own property unless:

(a) the street is not less than fifty feet in width; and

(b) the lines thereof have been approved by the council.

Closing of Narrow Street

(2) The town council may in its discretion wholly or partially close up or obstruct any street which is less than fifty feet in width, which is hereafter laid out, opened or dedicated, or which has been heretofore laid out, opened or dedicated contrary to law.

Power Preserved to Extend Existing Narrow Street

(3) This Section shall not restrict the power of the town council to extend, at its present width, any existing street which is not less than forty feet in width. R.S., c. 309, s. 168.

Street Closing By-law

169 (1) Subject to the following subsections, the council may by by-law close any public street or part thereof.

Public Hearing and Notice

(2) Before passing such by-law, the Council shall have a public hearing and shall give public notice of its intention to close such street or part thereof by advertisement inserted at least once a week for two successive weeks in a newspaper published or circulating in the area affected; the advertisement shall give the time and place at which the council will hear those in favour or those opposed to the closing of the street and the first such advertisement shall be published at least three clear weeks before the date so fixed. The advertisement shall give sufficient description adequately to identify the street or part which is to be closed.

Duty of Council

(3) At the time and place thus appointed, the council shall meet and shall hear all persons desiring to be heard in respect of the proposed closing of the street or part thereof.

Approval of By-law

(4) A by-law passed pursuant to this Section shall be subject to the approval of the Minister of Transportation as well as that of the Minister of Municipal Affairs.

Application for Approval

(5) The application to the Ministers for approval shall be accompanied by proof of compliance with the requirements of subsections (2) and (3).

Registration of Certified By-law

(6) A copy of the by-law certified by the mayor and the clerk under the seal of the town to have been passed, bearing the approval by the Minister of Municipal Affairs and of the Minister of Transportation, shall be registered in the Registry of Deeds [registry of deeds] for the registration district in which the street lies, without proof of the seal of the town or of the signatures or of the official character of the persons appearing to have signed the same, and without further proof thereof.

Effect of Registration

(7) Upon the registration of the copy of the by-law in accordance with subsection (6), all rights of public user in the lands theretofore used as a street, for the purpose of a public street, are forever extinguished and

the town may sell and convey the street or part thereof. R.S., c. 309, s. 169; 1978-79, c. 35, s. 8.

SNOW REMOVAL

Snow Removal by Owner or Occupier

170+[(1)] Within such portions of the town as the council by by-law designates, the occupiers, if any, and if not, the persons in charge, if any, and if there are no occupiers or persons in charge, then the owners of houses, stores, lots and pieces of land shall after every fall of snow clear away the snow from the sidewalks and gutters adjoining their respective premises:

(a) when the snow ceases falling during the day, within four hours after it has ceased falling; and

(b) when the snow ceases falling during the night within four hours after daylight on the following day.

Penalty

(2) Every person who violates this Section shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act. R.S., c. 309, s. 170; 1978-79, c. 36, s. 19.

Snow Removal by Town

171 The town council may at the expense of the town make provision for clearing away the snow and ice from the sidewalks, gutters, thoroughfares, or public places, in such portions of the town as the council by resolution designates. R.S., c. 309, s. 171.

BREAKING SOIL OF STREETS

Conditions To Break Up Soil of Street or Erect Poles

172 (1) No person shall break up the soil of any street, or erect or place in any street, road, lane, sidewalk, thoroughfare, bridge, park, square or public ground within the town, any telegraph, telephone, electric light, or other pole or poles, without first making application to the committee on streets in writing, specifying the purpose for which such breaking up is required, and obtaining their permission therefor in writing; and the committee may impose such terms upon the person applying as the security of the public appears to it to require.

Penalty

(2) Every person who violates this Section, or the terms imposed by the committee, shall, for every offence, be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Section Does Not Apply

(3) Subsections (1) and (2) shall not apply to any property the control of which is vested in commissioners or trustees for any public use, nor to a public utility subject to the control of the Board of Commissioners of Public Utilities.

Grant of Permit To Break Up Soil

(4) The town council, or the committee on streets may upon application grant to any person, firm or corporation, a permit to break up the soil of the street for the purpose of necessary drainage or making connection with any sewer or water or gaspipe [gas-pipe], or when it is deemed necessary for the purpose of the construction or moving of any building. R.S., c. 309, s. 172; 1978-79, c. 36, s. 20.

PENALTIES FOR IMPROPER USE OF STREETS

Penalty for Horse or Obstruction on Sidewalk

173 Every person who drives, rides or parks any horse or vehicle on or who obstructs or injuries [injures] any sidewalk shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act. R.S., c. 309, s. 173; 1978-79, c. 36, s. 21.

TREE COMMITTEE

Tree Committee

173A (1) The council may by by-law establish a Tree Committee [tree committee].

Constitution of Tree Committee

(2) The number of members, their term of appointment, and their remuneration, if any, shall be as set out in the by-law and persons who are not members of the council may be appointed to the Tree Committee [tree committee], provided that a majority of the members of the Tree Committee [tree committee] shall be members of the council. 1977, c. 51, s. 15.

Duties of Tree Committee

173B The duties of the Tree Committee [tree committee] shall be:

(a) to formulate plans of street tree planting;

(b) to ensure that trees on lands owned by the town are properly pruned, protected and repaired when deemed necessary and to recommend and encourage the proper pruning, protection and repair of privately owned trees in the town;

(c) to recommend and encourage the planting of trees of suitable species at desirable sites within the town. 1977, c. 51, s. 15.

Powers of Tree Committee

173C (1) The powers of the Tree Committee [tree committee] shall include the power:

(a) to enter upon any lands within the town for the purpose of spraying the trees thereon with insecticides and fungicides as approved and recommended by the Forestry Service of Canada;

(b) to enter upon any lands within the town for the purpose of inspecting the trees thereon to determine whether the same are in a diseased condition or damaged to such an extent that they constitute a hazard to the safety of persons or property;

(c) where a tree or limb on lands of the town is, in the opinion of the Committee [committee], hazardous to persons or property, or so affected by disease or insect infestation as to endanger the life and health of trees in the vicinity, to remove the tree or limb;

(d) where a tree or limb thereof on private lands within the town is, in the opinion of the Committee [committee], hazardous to persons or property or so affected by disease or insect infestation as to endanger the life and health of trees in the vicinity, to order the owner of such lands to remove the tree or limb within thirty days of service upon him of a copy of the order.

Content and Execution of Clause (1)(d) Order

(2) An order under clause (d) of subsection (1) of this Section shall be signed by the Chairman [chairman] and Secretary [secretary] of the Committee [committee] and shall contain a description of the location of the tree or limb thereof which the Committee [committee] directs to be removed.

Service of Copy of Order

(3) A copy of such order shall be served personally upon the owner of such lands or may be served by mailing the same by registered mail postage prepaid to such owner at his last known place of residence or business.

Failure To Remove Limb or Tree upon Notice

(4) In the event of failure by the person so served with notice, to remove the tree or limb described in the notice within thirty days after service, any person authorized by the Committee [committee] may enter upon the land upon which the tree or limb is situate, without writ, warrant or other legal process and remove the tree or limb; and the actual cost of so doing may be recovered as a debt from the person, so served, by action brought by the Clerk [clerk] in the name of the town with the approval of the council in any court of competent jurisdiction within six months after the cost is incurred.

Penalty

(5) After notice has been served under subsection (3) of this Section any person who fails to comply with the terms of the notice shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Damage from Spraying under Clause (1)(a)

(6) A person who has sustained damage as a result of the spray applied under clause (a) of subsection (1) of this Section may recover damages against the town. 1977, c. 51, s. 15; 1978-79, c. 36, s. 22; 1980, c. 49, s. 17.

Appeal from Order for Removal

173D (1) The owner of any tree or limb thereof who is dissatisfied with an order of the Committee [committee] ordering the removal of such tree or limb, may within thirty days from the date of such order appeal therefrom to the County Court [county court].

Power of Court upon Appeal

(2) Upon the appeal the Court [court] may confirm, modify or set aside the order of the Committee [committee].

Stay of Proceedings Pending Appeal

(3) The giving of a notice of appeal shall act as a stay of proceedings until the appeal has been determined. 1977, c. 51, s. 15; 1980, c. 49, s. 18.

Personnel and Remuneration

173E (1) The council may appoint such officials and employees as it may consider expedient for the efficient operation of the Committee [committee], and provide for the remuneration of such officials and employees.

Report of Tree Committee

(2) The Committee [committee] shall at such times as may be required by council submit to council a written report of its operations.

Annual Estimate

(3) The Committee [committee] shall annually submit to council an estimate of its expenditures for the ensuing year and the said estimates or so much thereof as are approved by council shall be paid out of the general revenues of the town.

Maximum Expenditure by Committee

(4) The Committee [committee] shall not expend in any year a larger sum than that contained in its estimates as approved by council without having first obtained special permission of council. 1977, c. 51, s. 15.

Offence To Mutilate or Cut Tree on Town Property

173F (1) Any person who defaces, mutilates or cuts any tree on town property without having first obtained the written consent of the mayor, or of the Chairman [chairman] of the Tree Committee [tree committee] if one has been established, is guilty of an offence and shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Separate Offence

(2) Any such person is guilty of a separate offence for each tree so defaced, mutilated or cut. 1978-79, c. 36, s. 23; 1980, c. 49, s. 19.

SEWERS

Powers Respecting Sewers and Watercourses

174 (1) The town council shall have power and authority to lay out, excavate, dig, make, build, maintain, repair and improve all such drains, sewers and watercourses as the council deems necessary or expedient.

Powers Respecting Privately Constructed Sewer

(2) The town council may acquire and take possession of any drain or sewer constructed by any person or persons through, under or along any street of the town and which the town council considers necessary for drainage

purposes of the town, upon such terms as to compensation to any person claiming or having any interest or right as owner or otherwise in such drain or sewer, as the council deems just, and to make by-laws or regulations respecting the same for the purpose of protecting and keeping the same free from obstruction, and for fixing and enforcing payment of the charges or compensation, if any, to be paid by persons using or draining into such sewers or drains. R.S., c. 309, s. 174.

Construction or Repair of Sewer across Private Land

175 (1) When the council deems it necessary to construct sewers or drains upon or across the land of any person, it may, after notice to the owner or occupant of the land from time to time enter thereon and do all such acts as are necessary for the construction or repair of a sewer or drain upon or across the land.

Construction of Sewer across Land of Another

(2) The town council upon application of any person may, by resolution, empower and authorize such person or any number of persons, to construct such sewer or drain and unless otherwise provided by such resolution this Act shall apply to the construction of such sewer or drain.

Depth and Covering Requirements

(3) Such sewer or drain shall be not less than four feet below the surface of the ground and shall be suitably covered. R.S., c. 309, s. 175.

Powers where Town Acquires Sewer or Drainage System

176 (1) When a town has constructed, purchased or otherwise acquired a sewer or drainage system the council or any standing committee thereunto authorized by the council either by resolution or by by-law may

(a) by order require the owner of every dwelling house, shop, store, office or other building the nearest part of which is not more than one hundred feet from any portion of the sewer line to construct a drain therefrom and connect the same with the sewer line in such manner as the by-laws provide; but the council of such committee shall exempt therefrom any such building as appears to it

(i) to be adequately served with sewer and drainage; or

(ii) would not be adequately served by connection with the sewer line of the Town [town];

(b) require owners of the outhouses and septic tanks where an order is made under clause (a) or where the building is connected with the sewer, to remove and destroy such outhouses and to destroy and fill such septic tanks.

Offence and Penalty

(2) Any person who fails to comply with an order made under clause (a) or clause (b) of subsection (1) or both, within thirty days after notice thereof has been served upon him either personally or by registered mail addressed to the last address known to the clerk, is guilty of an offence and liable upon summary conviction to the penalty prescribed by the Summary Proceedings Act. R.S., c. 309, s. 176; 1977, c. 51, s. 16; 1978-79, c. 36, s. 24.

Pollution Control Charge

176A (1) The council may by by-law provide for a pollution control charge, which shall be an annual charge upon the users of the sewerage system of the town, for the construction, operation and maintenance of a pollution control system, including collection mains or pipes, force mains, pumping stations, sewage treatment plant or plants, and other similar sewage treatment facilities for pollution control.

Charge Based on Water Consumption

(2) The by-law may provide for a charge based

(a) in the case of metered water users, according to actual rate of consumption of water; and

(b) in the case of others, on the basis of the average rate of consumption by a similar class of users of water in the preceding year.

Charge Based on Property Frontage

(3) Where users of a sewerage system are not users of a water system, the by-law may provide for a charge in proportion to the frontage of the respective properties abutting on the sewer.

Charge under Clause 221(5)

(4) The charge may be in lieu of, or in addition to, a charge imposed in a by-law under clause (5) of Section 221, as council shall determine.

Lien and Collection

(5) A charge levied under the authority of this Section shall constitute a lien on the property of the occupant of the property in respect of which the pollution control charge is levied and may be collected in the same manner and with the same remedies as rates and taxes under the Assessment Act. 1977, c. 51, s. 17.

Redevelopment or Trunk Sewer Charge

176B (1) The council may by by-law define the class or classes of buildings to be erected or enlarged according to the varying loads which in the opinion of council they impose or may impose on the sewer system and levy a charge or charges thereon to pay for additional or trunk sanitary or storm sewer capacity required to accommodate the effluent from such buildings and for the purpose of levying such redevelopment or trunk sewer charges the town may be divided into zones.

Lien and Collection

(2) A charge levied under the authority of this Section shall constitute a lien against the land upon which the building is erected or enlarged and may be collected in the same manner and with the same remedies as rates and taxes under the Assessment Act. 1977, c. 51, s. 17.

Trunk Sewer Tax

176C (1) The council may by by-law impose a trunk sewer tax

(a) on each lot in a new subdivision upon final approval of the subdivision;

(b) on each lot in an existing subdivision when the lot is capable of being serviced by a sanitary sewer or a storm sewer in a street on which the lot is located.

Lien and Collection

(2) The trunk sewer tax shall constitute a first lien against the land in respect of which it is levied and may be collected in the same manner and with the same rights and remedies as rates and taxes under the Assessment Act. 1977, c. 51, s. 17; 1980, c. 49, s. 20.

Establishment of Waste-water Management District

176D (1) The council may by by-law establish a waste-water management district if the establishment of the proposed district is approved by secret ballot at a public meeting by a majority of the persons assessed within the proposed district for real property tax and whose total real property assessment within the proposed district is at least fifty per cent of the total real property assessment within the proposed district of all persons.

Approval by Plebiscite

(1A) Notwithstanding subsection (1) and if the council so determines, the establishment of a waste-water management district may be approved by a plebiscite conducted pursuant to the Municipal Elections Act instead of at a public meeting.

More Than One District Allowed

(2) The council may establish more than one waste-water management district.

Requirements of By-law Establishing District

(3) A by-law made pursuant to subsection (1) shall

(a) delineate the boundaries of the waste-water management district;

(b) state the system or systems of waste-water management to be used in the district;

(c) state the extent to which the town assumes responsibility for the repair, upgrading or replacement of private and public sewer systems; and

(d) provide a method for charging the persons assessed for real property tax within the district the expenditures made in the district for any waste-water management system.

Powers of Council in Establishing District

(4) A by-law made pursuant to subsection (1) may

(a) provide that the charges for any waste-water management system are to be levied in in respect of real property

(i) in proportion to street frontage,

(ii) in proportion to real property assessment, or

(iii) in accordance with such other method as the by-law may provide;

(b) make the charges collectable in the same manner as rates and taxes are collectable under the Assessment Act and, if the clerk so determines, collectable at the same time and by the same proceedings;

(c) make the charges a lien on real property in the same manner and with the same effect as rates and taxes under the Assessment Act;

(d) provide a manner for determining when such a lien becomes effective or when such charges become due and payable;

(e) provide that the charges with respect to a property may, at the option of the owner of the property, be paid in such number, not exceeding ten, of annual instalments as the by-law provides and that on default of payment of any instalment the balance of the charges becomes immediately due and payable;

(f) provide that interest, at such rate and after such date as the by-law provides, shall be payable annually on the unpaid balance, whether or not the owner has elected to pay by instalment.

Right of Entry To Repair Private System

(5) Where a council has made a by-law pursuant to subsection (1), the town, its servants and agents may enter on any property within the waste-water management district to repair, upgrade or replace a private waste-water system and may, in accordance with the by-law, charge any or all of the costs therefor to the owners of the property served by the system. 1981, c. 43, s. 3; 1982, c. 47, s. 6.

POWER TO TAKE LAND FOR CERTAIN PURPOSES

Expropriation

177 (1) Whenever the town council deems it necessary:

(a) to lay out, open, construct, maintain, improve or alter any street, road, lane, sidewalk, thoroughfare, bridge, square, park or public grounds; or

(b) to construct, alter, enlarge, improve or repair any reservoir; or

(c) to lay down, take up or repair any water pipes; or

(d) to construct, alter, enlarge, improve or repair any sewer or drain; or

(e) to erect, acquire, purchase, alter, add to or improve any building for a public school, fire department, police office, lock-up, town hall, or other town purpose; or

(f) to acquire land required for the purposes of the town;

the council may from time to time and as often as is necessary for any of the purposes aforesaid enter upon and take the lands or property of any person, or may remove therefrom any buildings, projections, walls, fences, or other things or any portion thereof, and for the puroses of paragraphs (b), (c), (d) or (f), or any of them, the council may enter upon and take such lands or property or remove anything therefrom whether such lands, property or things are within or without the boundaries of the town.

Filing of Plan Required

(2) When any lands or property are taken as aforesaid the town council shall cause a plan of such lands or property or of so much thereof as is required for the purposes aforesaid to be made and filed in the office of the town clerk. R.S., c. 309, s. 177.

178 Repealed 1977, c. 51, s. 18.

179 Repealed 1977, c. 51, s. 18.

180 Repealed 1977, c. 51, s. 18.

181 Repealed 1977, c. 51, s. 18.

182 Repealed 1977, c. 51, s. 18.

183 Repealed 1977, c. 51, s. 18.

184 Repealed 1977, c. 51, s. 18.

185 Repealed 1977, c. 51, s. 18.

186 Repealed 1977, c. 51, s. 18.

187 Repealed 1977, c. 51, s. 18.

FIRES AND FIREWARDS

Firewards

188 (1) The council shall annually appoint such number of firewards, not exceeding six as it deems necessary, who shall be sworn to the faithful discharge of their duties, and shall have suitable badges of office provided for them by the town council.

Powers of Captain in Absence of Fireward

(2) In the absence of all firewards, the captains of fire companies shall, until a fireward arrives, have all powers of fire wards [firewards] at any fire. R.S., c. 309, s. 188; 1970-71, c. 59, s. 13.

Duties and Powers of Fireward

189 (1) When any fire occurs, the firewards or any persons acting under their direction or authority shall endeavour to extinguish and prevent the spreading of the same and for such purposes shall have power:

(a) to command the assistance of persons present and of all inhabitants of the town;

(b) to remove property from buildings on fire or in danger thereof;

(c) to take charge of such property;

(d) to enter, break into or tear down any building;

(e) to exclude persons and vehicles from the vicinity of the fire; and

(f) generally to do all things necessary to carry out such powers.

Penalty

(2) Every person who disobeys any lawful orders or commands of a fireward shall for each offence be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Liability of Fireward

(3) No fireward nor any person acting under his direction or authority shall be liable to any action or proceeding for any act done in the exercise of any of the powers in this Section conferred. R.S., c. 309, s. 189; 1978-79, c. 36, s. 25.

Power To Direct Destruction of Building

190 (1) The firewards may direct that any building be pulled down or otherwise destroyed, if in their judgment [judgement] doing so will tend to prevent the further spreading of the fire.

Compensation for Destroyed Building

(2) If the pulling down or other destruction of such building has the effect of stopping the fire, or the fire stops before it comes to the same, the owner of the building shall receive payment therefor out of the funds of the town upon making application to the council.

Order for Valuation and Appointment of Arbitrators

(3) The council, if satisfied of the justice of the claim, shall make an order for the valuation and shall also forthwith appoint an arbitrator, and the owner of the building so destroyed shall appoint an arbitrator. The two arbitrators so appointed shall appoint a third, and if they are unable to agree, the Governor in Council shall appoint the third arbitrator.

Award of Arbitrators Is Final

(4) The three arbitrators so appointed shall be sworn to make a valuation of the damage sustained by the applicant, and the sum found by the award of the arbitrators or any two of them shall be final.

Award Is Charge on Municipal Revenue

(5) The amount of the award shall be a charge upon the revenues of the town, and shall be included in the amount to be rated at the next annual rating, and shall be paid over to the person entitled thereto within three months after the amount has been so rated. R.S., c. 309, s. 190.

Report on Fire Equipment

191 The firewards shall from time to time report to the town council what apparatus, machinery, implements or equipment is required for service at fires, and the probable cost thereof, and of keeping the same in repair. R.S., c. 309, s. 191.

Assistance at Fire outside Town

192 (1) A town may assist with its men, apparatus, machinery, implements and equipment at fires occurring outside its boundaries.

Agreement Respecting Fire Assistance

(2) A town council may enter into an agreement with one or more cities, towns, municipalities, villages, commissions or persons for such length of time and on such terms as the council may determine, for giving assistance at fires outside the boundaries of the town or for receiving assistance at fires within its boundaries or for both, and may make such expenditures as are necessary to carry out the terms of the agreement. R.S., c. 309, s. 192.

FIRE AND PROTECTION COMPANIES

Existing Fire and Protection Company

193 All fire companies and protection companies now organized in any town, shall be subject to the control of the council, provided that such companies shall have power to elect their own officers and members, and to make rules, regulations and by-laws for the management of such companies. R.S., c. 309, s. 193.

Organization and Government of Fire Company by Council

194 (1) The town council may organize, dissolve or disband fire companies to assist in the extinguishing of fires or the preservation and protection of property thereat, and may enact rules, regulations and by-laws for the government of companies so organized.

Control of Company During Fire

(2) All fire and protection companies, whether or not organized under the authority of this Section, shall, during the progress of a fire, be subject to the control of the firewards. R.S., c. 309, s. 194.

In Absence of Fireward at Fire

195 In the absence of all the firewards, the captains of fire companies, protection companies and salvage corps shall, until a fireward arrives, have all the powers of firewards at any fire. R.S., c. 309, s. 195.

Inclusion in Workers' Compensation Act

196 (1) The town may apply to have the members of fire and protection companies admitted within the scope of Part 1 [I] of the Workers' Compensation Act and in case of admission each member of a fire or protection company shall

be deemed to earn wages within the limits set out in clause (d) of subsection (4) of Section 4 of the Workers' Compensation Act for assessment and compensation purposes, and the town shall be liable as an employer for the assessments.

Exclusion from Workers' Compensation Act

(2) The council may at any time notify the Workers' Compensation Board of Nova Scotia that it desires the members of such companies to be excluded from the scope of Part I of the said Act, and thirty days after such notice said Part I shall cease to apply to such members.

Exercise of Powers under Section

(3) The powers conferred by this Section may be exercised from time to time notwithstanding any previous admission or cancellation thereof. R.S., c. 309, s. 196; 1972, c. 55, s. 4; 1978-79, c. 38, s. 1.

Remuneration

197 The council may make provision for the remuneration of members of fire and protection companies. R.S., c. 309, s. 197.

Duty of Firemen upon Alarm

198 Upon an alarm of fire, the firemen shall repair to the fire with the apparatus, machinery, implements and equipment and shall use the same under the direction of the firewards. R.S., c. 309, s. 198.

Power of Captain

199 The captain of a company, or in his absence the next officer in rank, shall have the power of a fireward in commanding assistance in taking such apparatus, machinery, implements and equipment to or from any fire, and a like penalty shall attach to disobedience of his orders, lawfully given, as to those of a fireward. R.S., c. 309, s. 199.

Appointment of Engine Operator and Firemen

200 Notwithstanding anything in this Act contained, the town council may appoint an engineer or other persons to operate any fire engine or other apparatus, machinery, implements or equipment used for the purpose of extinguishing fires, and such engineer or other persons shall during the continuance of a fire be subject to the orders of the firewards. R.S., c. 309, s. 200.

FIRE CONSTABLES

Fire Constable

201 (1) The council may appoint as many fire constables as it deems necessary, who shall be sworn into office, and shall attend at a fire, and act under the direction of the firewards in subduing the fire, preserving, securing and protecting property, keeping order and preventing thefts. Fire constables shall at all fires have all the powers and authority, privileges and immunities of constables or peace officers.

Powers and Duties of Police Officer at Fire

(2) Police officers shall perform at fires the same duties, and possess the same powers, as are hereby imposed and conferred upon fire constables. R.S., c. 309, s. 201.

POLICE OFFICE

Police Office

202 There shall be in the town a police office, to be established by the town council. R.S., c. 309, s. 202.

Powers and Duties of Stipendiary Magistrate

203 The stipendiary magistrate shall attend at the police office at such times and for such periods as are necessary for the disposal of the business brought before him and shall have and exercise, within the town, all the jurisdiction, power and authority of two justices of the peace. R.S., c. 309, s. 203.

Clerk of Stipendiary Magistrate

204 The town clerk, or such other person as the town council appoints for that purpose, shall be the clerk of the stipendiary magistrate. R.S., c. 309, s. 204.

Police Office Record Book

205 There shall be kept by the clerk of the stipendiary magistrate, a book, to be called the "Police Office Record Book", in which shall be set down the name of every person against whom any charge is made in the police office, the name of the person making the charge, the offence charged, and the manner in which, and the person by whom, the charge is disposed of. R.S., c. 309, s. 205.

Entry and Evidence of Conviction

206 Every conviction made by a stipendiary magistrate shall be filed with the clerk of the stipendiary magistrate and a copy thereof certified by the clerk of the stipendiary magistrate to be a true and correct copy shall be evidence thereof in any court, without proof of the handwriting, signature or official character of such clerk. R.S., c. 309, s. 206.

Penalties Form Part of General Revenues of Town

207 All penalties imposed and collected or received by the stipendiary magistrate for a violation of any Act of the Legislature or of any by-law or ordinance of the town and all fees collected or received in respect of any such violation shall form part of the general revenues of the town when not otherwise by such Act, by-law or ordinance provided. R.S., c. 309, s. 207.

POLICE OFFICERS

Police Officers

208 The town council may from time to time appoint such and so many police officers as are deemed expedient, who shall hold office during pleasure and who may be dismissed at any time by resolution of the council. R.S., c. 309, s. 208.

Disturbing Peace and Other Prohibited Activity

209 (1) No person shall disturb the public peace in the town or:

(a) lie or lurk in any highway, yard or other place in the town and not give a satisfactory account of himself; or

(b) be drunk or feign to be drunk or make any loud bawling, yelling, screaming, singing or shouting in any public street or thoroughfare of the town; or

(c) incommode peaceful passersby or loiter on the streets or highways or in the doorways or windows of shops or dwellings on the streets or thoroughfares of the town; or

(d) obstruct people by standing across the sidewalks or thoroughfares of the town.

Penalty

(2) Any person who violates any of the provisions of this Section shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Arrest without Warrant

(3) Any police officer of the town may take into his custody without warrant, any person whom he finds violating any provision of this Section.

Confinement

(4) Such police officer shall confine such person in the town lockup [lock-up] house or the county jail of the county in which the town is situate until he may be conveniently taken before a stipendiary magistrate, or justice of the peace having jurisdiction, which shall not be later than noon of the next day which is not a holiday. R.S., c. 309, s. 209; 1978-79, c. 36, s. 26.

Arrest without Warrant in Certain Other Cases

210 (1) Every person who violates any provision of this Act, or any by-law or ordinance of the town, with respect to:

(a) securing the safety of passengers in the town;

(b) the preservation and protection of property in case of fire;

(c) the protection and prevention of injury to the streets, squares, sidewalks, and pavements, and the posts, railings, trees and other accessories thereto;

(d) the licensing of auctioneers and of peddlers, hawkers and traders of goods who are not ratepayers of the town;

(e) the protection of cemeteries, graves, tombs, tombstones, or vaults where the dead are buried;

(f) the prevention of cruelty to animals and the destruction of birds;

(g) the prevention of persons entering private dwellings or places of business and remaining therein after being requested by the owner or occupant to withdraw;

(h) the prevention of the firing of firearms, the setting off of squibs or other fireworks, the burning of inflammable material, and the carrying of fire or lights not properly protected;

(i) the regulation or prevention of cutting ice on lakes and rivers;

(k) the prevention of making or posting indecent placards, writings, pictures or drawings or writing indecent words upon walls or fences in the streets or public places of the town;

(l) the preserving of peace, health and good order within the town;

may be arrested without warrant by any police officer or peace officer present at the commission of the offence, or by any person thereto in writing or verbally authorized by the stipendiary magistrate or by a justice of the peace, if such magistrate or justice is present at the commission of the offence.

Confinement

(2) Such police officer, peace officer or person shall confine such person so arrested in the town lock-up house, or the county jail of the county in which the town is situate until he may be conveniently taken before a stipendiary magistrate or justice of the peace having jurisdiction which shall not be later than noon of the next day which is not a holiday. R.S., c. 309, s. 210.

SPECIAL CONSTABLES

Special Constables

211 (1) In case of riot, tumult or disturbance or illegal act of any kind accompanied with force or violence within the town, or a reasonable apprehension thereof, the mayor, stipendiary magistrate, or any councillor, may by writing under his hand appoint any number of special constables to assist in restoring peace and order.

Term of Appointment

(2) The appointments of such special constables shall continue in force for seven days from the date of appointment, unless sooner revoked by the mayor.

Oath of Office

(3) The mayor or any member of the police committee may swear such special constables to the faithfu discharge of their duties.

Direction and Control of Special Constables

(4) Such special constables shall be under the direction and control of the police committee or mayor. R.S., c. 309, s. 211.

Special Constables where Disturbance at Public Assembly

212 If any disorder or disturbance occurs at any public meeting or assembly of persons, the mayor, stipendiary magistrate or any councillor, upon the request of the chairman of the meeting, or of three or more ratepayers may verbally appoint and swear in special constables, who shall aid in restoring and preserving order. R.S., c. 309, s. 212.

Penalty for Refusal To Act or Be Sworn

213 (1) Every person appointed a special constable who refuses to act or be sworn in shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act.

Remuneration of Special Constable

(2) The council shall pay special constables a sum not exceeding five dollars per day for their services. R.S., c. 309, s. 213; 1978-79, c. 36, s. 27.

EXTRA CONSTABLES

Extra Constable

214 The council may from time to time appoint such extra constables as it deems necessary, and for such period, not exceeding one year, as it deems requisite. R.S., c. 309, s. 214.

Swearing in of Extra Constable

215 Every extra constable shall be sworn to the faithful discharge of his duties. R.S., c. 309, s. 215.

Remuneration of Extra Constable

216 The council shall pay any extra constable for his services when he is called out for special duty, but in no other case. R.S., c. 309, s. 216.

Direction and Control of Extra Constable

217 The extra constables shall be under the direction and control of the police committee, and shall assist police officers in preserving the peace. R.S., c. 309, s. 217.

Duties of Extra Constable

218 (1) On the request of the mayor, stipendiary magistrate, or police committee, an extra constable shall serve any summons or execute any warrant issued by the stipendiary magistrate or municipal court and shall perform any duty that a peace officer or police officer has authority to perform.

Duty of Extra Constable upon Breach of Peace

(2) If a breach of the peace occurs in his presence he shall restore order, and if necessary shall take any person into his custody and confine him in the town lock-up house or county jail. R.S., c. 309, s. 218.

Penalty for Refusal To Act or Be Sworn

219 Every extra constable so appointed who neglects or refuses to be sworn shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act. R.S., c. 309, s. 219; 1978-79, c. 36, s. 28.

Persons To Assist Police or Constable in Making Arrest

220 (1) It shall be the duty of every person, having reasonable notice that he is required to do so, to assist any police officer or constable in the execution of his duty in making any arrest in any civil matter in respect of which the Legislature of the Province has jurisdiction.

Penalty

(2) Every person who, upon such request, refuses or neglects to assist such police officer or constable, shall be liable on summary conviction to the penalty prescribed by the Summary Proceedings Act. R.S., c. 309, s. 220; 1978-79, c. 36, s. 29.

BUSINESS IMPROVEMENT DISTRICT

Establishment of Business Improvement District

220A (1) The council may by by-law establish a business improvement district if

(a) the council receives a petition, requesting such a district to be established, signed by at least

(i) fifty-one per cent of the persons assessed within the proposed district for business occupancy tax and whose total business occupancy assessment within the proposed district is at least fifty-one per cent of the total business occupancy assessment within the proposed district of all persons, and

(ii) fifty-one per cent of the persons assessed within the proposed district for real property tax in respect of commercial property and whose total commercial property assessment within the proposed district is at least fifty-one per cent of the total commercial property assessment within the proposed district of all persons; or

(b) subject to subsection (2), the council has, pursuant to subsection (3), sent notice of its intent to establish such a district to all persons assessed within the proposed district for business occupancy tax or for real property tax in respect of commercial property.

Objection

(2) The council shall not establish a business improvement district pursuant to clause (b) of subsection (1) if written objection to the establishment of such a district is received from at least

(a) forty per cent of the persons assessed within the proposed district for business occupancy tax and whose total business occupancy assessment within the proposed district is at least forty per cent of the total business occupancy assessment within the proposed district of all persons; and

(b) forty per cent of the persons assessed within the proposed district for real property tax in respect of commercial property and whose total commercial property assessment within the proposed district is at least forty per cent of the total commercial property assessment within the proposed district of all persons.

Notice of Intent To Establish District

(3) A notice given pursuant to clause (b) of subsection (1) shall

(a) be sent by prepaid mail to every person assessed within the proposed business improvement district for business occupancy tax or for real property tax in respect of commercial property;

(b) delineate the boundaries of the proposed district;

(c) include a copy of Sections 220A to 220F of this Act; and

(d) state that written objection may be made to the council by delivery of such objection to the town clerk within three weeks, or such longer period as the council may determine, from the date of the notice.

More Than One District Allowed

(4) The council may establish more than one business improvement district. 1981, c. 43, s. 4.

Business Improvement District Commission

220B (1) A by-law made pursuant to Section 220A shall establish a business improvement district commission for the business improvement district.

Body Corporate

(2) If the Minister approves a by-law establishing a business improvement district commission, he shall

(a) issue to the commission an instrument of incorporation setting out the name of the commission, the number of members of the commission and the boundaries of the business improvement district; and

(b) cause a copy of the instrument of incorporation to be filed with the Registrar of Joint Stock Companies,

whereupon the commission shall be a body corporate under the name set out in the instrument of incorporation.

Composition of Commission

(3) A business improvement district commission shall consist of

(a) two members at large; and

(b) at least two and not more than six persons representing the business improvement district or business improvement organizations representing the district, as the by-law establishing the commission determines,

appointed annually by the council.

Vacancy

(4) Any vacancy on a business improvement district commission, other than a vacancy resulting from the expiration of the term of office of a member of the commission, shall be filled by a person appointed at the next regular meeting of the council, and such appointment shall be for the unexpired term of the member who created the vacancy.

Officers

(5) A business improvement district commission shall have such officers and the officers shall be appointed or elected in such manner as the by-law establishing the commission determines.

Meetings and Procedures

(6) A business improvement district commission shall meet at such time and in such manner and be governed by such procedures as the by-law establishing the commission determines.

Meetings Open to Public

(7) Every meeting of a business improvement district commission shall be open to the public. 1981, c. 43, s. 4.

Objects of Commission

220C The objects of a business improvement district commission are to

(a) beautify, improve, enlarge, repair, alter, equip, service, insure and maintain property owned or leased by it;

(b) beautify, improve and maintain property of the town as authorized by the council;

(c) promote the business improvement district as a place for retail and commercial activity;

(d) establish or maintain parking facilities within the district. 1981, c. 43, s. 4.

Powers of Commission

220D A business improvement district commission may

(a) acquire, accept or receive real and personal property, or any interest therein, and dispose of the same when no longer required for the use of the commission;

(b) use, apply or dispose of real or personal property, or any interest therein, in accordance with the terms on which it was acquired, accepted or received or for any object of the commission not inconsistent with the terms of the acquisition, acceptance or receipt;

(c) make grants to persons assessed within the business improvement district for business occupancy tax or for real property tax in respect of commercial property, or to any organization incorporated for the purpose of promoting the district as a place for retail or commercial activity;

(d) do all other things necessary or incidental to the carrying out of the objects of the commission. 1981, c. 43, s. 4.

Grants to Commission

220E (1) The council may from time to time make grants to a business improvement district commission for the purpose of carrying out the objects of the commission.

Proposed Operating Budget and Rate Estimate

(2) Each year a business improvement district commission shall, on or before such day as the by-law establishing the commission determines, submit to the council its proposed operating budget for the next year, together with an estimate of the business improvement rate required to be levied pursuant to subsection (5) to raise the funds required to implement the operating budget as proposed.

Budget Meeting

(3) Prior to the submission to the council of a proposed operating budget, a business improvement district commission shall

(a) hold a meeting to consider the proposed operating budget and business improvement district rate and at such meeting hear all submissions respecting the proposed operating budget and business improvement district rate; and

(b) at least two weeks prior to the meeting

(i) notify by prepaid mail every person assessed within the business improvement district for business occupancy tax or for real property tax with respect to commercial property, of the date, time and location of the meeting, and

(ii) cause to be inserted in a newspaper circulating in the town a notice stating the date, time and location of the meeting.

Report of Budget Meeting

(4) A report of the meeting held pursuant to subsection (3) shall be included with the proposed operating budget submitted to the council.

Business Improvement District Rate

(5) If the council approves the proposed operating budget of a business improvement district commission, the council shall levy and collect a business improvement district rate of so much on the dollar on the total business occupancy assessment and commercial property assessment within the business improvement district, sufficient to raise the sum estimated to be required to defray the expenditures of the commission as set out in the proposed operating budget, less any revenue to be received by the commission other than from the collection of such rate.

Lien and Collection

(6) The rate levied pursuant to subsection (5) constitutes a lien upon the property in respect of which it is levied, in the same manner and with the same effect as and is collectable in the same manner as rates and taxes under the Assessment Act.

Maximum Expenditure by Commission

(7) The expenditures of a business improvement district commission in any year shall not exceed the revenue of the commission for that year.

Auditor

(8) The auditor of the town shall be the auditor of a business improvement district commission of the town. 1981, c. 43, s. 4

Dissolution of Commission

220F (1) Subject to subsection (2), the council may by by-law dissolve a business improvement district commission upon receipt of a petition signed by the persons who may request the establishment of a business improvement district pursuant to clause (a) of subsection (1) of Section 220A.

Approval of Dissolution By-law

(2) If the Minister approves a by-law made pursuant to subsection (1), he shall cause a copy of the by-law to be filed with the Registrar of Joint Stock Companies, whereupon the business improvement district commission is dissolved.

Transfer of Assets and Liabilities upon Dissolution

(3) Upon dissolution of a business improvement district commission pursuant to subsection (2), the assets and liabilities of the commission become assets and liabilities of the town. 1981, c. 43, s. 4.

BY-LAWS AND ORDINANCES

By-laws

221 The town council, in addition to any power to make by-laws and ordinances elsewhere in this or in any other Act conferred, shall have power to make by-laws in respect of all matters coming within the following classes of subjects, and may by by-law from time to time amend, alter or repeal such by-laws, that is to say:

(1) regulating its own proceedings and preserving order at council meetings;

(1A) providing for paying the reasonable expenses incurred by the mayor or a councillor for attendance at meetings and conferences outside of the county in which the town is located where the permission of council has been obtained prior to the meeting or conference;

(2) regulating and providing for the management and use of all property of the town; and prohibiting, at all times or on certain days or within certain hours, persons from trespassing or from leaving animals or vehicles or both, whether attended or unattended, in or upon land or buildings owned by the town or any airport, landing field or landing strip, part or all of which is within the town and conferring power to remove vehicles at the expense of the owner; but no such by-law shall apply to any airport operated by Her Majesty in right of Canada;

(3) regulating the operation, management and use of any park or playground and preserving good order therein;

(3A) regulating the operation, management and use of a public market in the town;

(4) setting aside of land as a parking ground, regulating the use of a parking ground, prescribing the conditions or terms upon which vehicles may be parked thereon including providing for the erecting, maintaining and operating or the granting to any person for such period of time not exceeding five years and upon such terms and conditions as the council may determine, the right to erect, maintain and operate on any parking ground or portion thereof, parking meters or other devices for the purpose of measuring and recording the duration of parking, and requiring drivers and registered owners of every vehicle using the parking ground to pay for parking such vehicle thereon a fee according to the amount or scale prescribed by the by-law and as measured by the meter or device;

(5) (a) regulating or protecting drains, sewers and water courses [watercourses] in the town;

(b) prescribing the method by which a sewer drain shall be installed, the manner of opening into and connecting with any sewer, and the size, form, and materials of sewer drains and connection with sewers; prohibiting the construction of sewer drains or connecting with a sewer or both of them by any person other than officials and employees of the town; and prescribing terms and conditions under which the town will install a sewer drain or any part thereof and connect it with a sewer;

(c) imposing, fixing and enforcing payment of charges, rates or fees for drain or sewer frontages or for connecting with any sewer or for use of drains or sewers;

(6) providing for the imposing of, fixing or determining of and for the enforcing payment of charges for recovering all or part of the amount paid by the town under the provisions of Section 163;

(7) providing for the imposing of, fixing or determining of and for the enforcing payment of charges for recovering all or part of the cost of laying out, opening, constructing, repairing, improving and maintaining streets, curbs, sidewalks, gutters, bridges, culverts and retaining walls, whether such cost is incurred by the town directly or by or under an agreement with Her Majesty or with any other person;

(8) providing in a by-law or by-laws under clause (5), (6) or (7) any or all of the following:

(a) that the charges fixed by or determined under the by-law may be chargeable in proportion to frontage or in proportion to the assessment of the respective properties fronting on the street or according to such other plan or method as the by-law may provide;

(b) that the charges may be made and collected only if the persons owning more than fifty per cent of the frontage of the real property fronting on the street or the portion of the street where the work has been performed, have filed with the clerk a petition praying that the work be performed;

(c) that the charges become a lien on the whole of the property fronting on the street in the same manner and with the same effect as rates and taxes under the Assessment Act;

(d) that the charges be collectible [collectable] in the same manner as rates and taxes under the Assessment Act, and at the option of the clerk be so collectible [collectable] at the same time and by the same proceedings as are rates and taxes;

(e) a method of determining when such lien becomes effective or when such charges become due and payable;

(f) that the amount payable may, at the option of the owner of the property, be paid in annual instalments over such period as the by-law provides, not exceeding twenty years in the case of charges under clause (5) and not exceeding ten years in the case of charges under clause (6) or (7), and that the whole balance thereof becomes due and payable in case of default of payment of an instalment;

(g) that interest be payable annually on the entire amount from time to time outstanding and unpaid, whether or not the owner has elected to pay by instalments, at a rate and beginning on a date fixed by or pursuant to the by-laws;

(8A) setting the rate of interest to be charged on overdue rates and taxes and water and sewer charges owing to the town;

(9) regulating and licensing persons engaged in the business of plumbing or pipe fitting and the manner

in which plumbing and pipe fitting shall be done and the character of materials to be employed; and for the appointment of an inspector or inspectors to carry out the provisions of any such by-law;

(10) defining the duties of town officers and employees, and the manner in which they shall account for money received or expended by them, and regulating the salaries, wages and emoluments to be paid to such officers and employees;

(11) providing for the destruction of any documents or records of the town after they are no longer required and providing the period of time for which documents and records must be retained before they may be destroyed; provided that the clerk has submitted to the council his affidavit that he has personally examined each of the documents or records proposed to be destroyed and that there is nothing of value therein, and provided that the approval of the council has been obtained in each case and provided that nothing in the by-law shall authorize the destruction of:

(a) deeds, mortgages or other documents or records relating to the title of real property;

(b) court records;

(c) records required to be kept by any statute;

(d) records less than five years old;

(e) minutes, by-laws or resolutions of the council;

(f) plans and surveying records;

(12) Repealed 1980, c. 49, s. 21.

(13) regulating the amounts in which bonds shall be given by town officers, the form thereof, the manner in which they shall be given, and the nature of the security to be given, when not otherwise provided;

(14) regulating the procedure at meetings and voting of the voters of the town;

(14A) adopting for the town, altering or amending an armorial achievement, flag or standard of such design as the by-law may determine, regulating and controlling the use thereof; authorizing the council or a committee thereof to grant permission to use the same under such terms and conditions as the council or such committee deems proper, and prohibiting the use thereof without such permission or in contravention of any such term or condition and providing that each day in violation thereof shall be a fresh offence; providing for the registration of the design, and the taking of proceedings by the town or an official thereof to prevent its unauthorized use;

(15) regulating and fixing all fees in civil actions in the municipal court of the town, except in so far as the same are fixed by statute;

(16) preserving peace, health and good order within the town;

(17) giving the right of way or precedence to fire apparatus, machinery, implements or equipment and protecting and preserving property from fires;

(18) Repealed 1980, c. 49, s. 21.

(19) regulating or prohibiting the firing of guns, air rifles and firearms of any kind or any of them;

(20) regulating or prohibiting the burning of inflammable materials;

(21) preventing or regulating the use of fire in places where combustible substances are kept, and preventing the use of pipes, cigars or cigarettes in such places;

(22) regulating the carrying on of factories or trades likely to cause or increase fires, or dangerous to the public safety;

(23) licensing and regulating chimney sweeps, with power to discriminate between residents and non-residents as to the amount of the license fee to be charged, and fixing and regulating the fees chargeable by chimney sweeps;

(24) regulating the time and mode of cleaning chimneys;

(25) preventing cruelty to and the destruction of animals and birds;

(26) prohibiting the building of barbed wire fences along the streets of the town, and in any other

part of the town or throughout the town as the by-law provides, and regulating the manner of building other wire fences;

(26A) requiring owners of privately-owned swimming pools to erect and maintain fences and gates around such swimming pools and for prescribing the height, description of and the manner of erecting and maintaining such fences and gates;

(27) prohibiting and regulating the use of swinging sign-boards or other signs or sign-boards;

(28) providing sufficient yards and enclosures for the safe-keeping of impounded animals;

(29) prohibiting or regulating the running at large or trespassing of any animals, and providing for impounding them, and for causing them to be sold in case they are not claimed within a reasonable time, or in case the damage, penalty and expenses are not paid according to law;

(29A) providing for the protection of persons from rabid dogs or other rabid or diseased animals, for the destruction of all dogs or other animals rabid or supposed to be rabid and running at large, and for the prohibition of the sale of the flesh of any animal affected by the symptoms usually attendant on canine madness or other disease;

(30) appraising the damages to be paid by owners of animals impounded for trespassing contrary to the laws of the Province or the by-laws of the town;

(31) determining the fees to be allowed to pound-keepers and others in carrying out any statute or by-law with respect to animals impounded;

(32) prohibiting or regulating the going at large of geese, turkeys, hens and other domestic fowl;

(33) preventing the violation of, or other unlawful interference with, cemeteries, graves, tombs, tombstones or vaults where the dead are buried;

(34) preventing the growing of thistles and other noxious weeds;

(35) prohibiting the defacing of public or private property by printed or other notices;

(36) prohibiting and regulating the cutting of ice on lakes and rivers;

(37) preserving of the banks of rivers;

(37A) prohibiting such acts likely to cause or increase flooding in the town as are specified in the by-law;

(38) regulating the police force;

(39) establishing, managing, maintaining and regulating lock-up houses;

(40) prohibiting children under the age of sixteen years (or such younger age as the by-law provides) from walking or being on any road, street or sidewalk or in any restaurant, dance hall, theatre or other place of amusement, after the hour prescribed by the by-law, or prescribing the conditions under which any such children may be on or in any such place after such hour, authorizing a police office or constable to take into custody and retain for not more than six hours any child violating the by-law and requiring parents and guardians to prevent children from being on or in such prohibited places in violation of the by-law;

(41) protecting and preventing injury to streets, squares, sidewalks and pavements, and to the posts, railings, trees and ornaments of the town;

(42) erecting, maintaining and operating, or granting to any person for such period of time not exceeding five years, and upon such terms and conditions as the council may deem expedient, the right for erecting, maintaining and operating on any highway or portion of a highway automatic or other mechanical meters or devices, with the necessary standards for the same, for the purpose of measuring and recording the duration of parking on the streets of the town, or any of them, and requiring drivers of every vehicle parked on such highway to pay for parking such vehicle on the highway a fee according to the amount or scale prescribed by the by-law and as measured by the meter or device;

(43) prohibiting the leading, riding or driving of horses or cattle upon sidewalks or other places not proper therefor;

(44) compelling persons to remove all snow and ice from the roofs of the premises owned or occupied by them;

(45) regulating the erection and preservation of lamp posts [lamp-posts], telegraph, telephone and electric light poles, signboards [sign-boards], awnings and other fixtures and providing for the removal of same whether erected before or after the enactment of this clause;

NOTE - See Section 25 of the Public Utilities Act.

(46) preventing and abating public nuisances, preventing or regulating the keeping of goats, pigs, foxes, mink, geese, turkeys, hens and other domestic fowl and other animals, and defining the limits within which the same may be kept in the town;

(47) regulating and controlling the emission or discharge of smoke, odors [odours] and gases and the constituent parts thereof and for preventing the pollution of air therefrom and prescribing standards regulating such emission and discharge, prohibiting the emission or discharge of smoke, odors [odours] and gases and their constituent parts when they are in excess of such standards or constitute a nuisance, and requiring the installation of dust and soot separating equipment and indicators and recorders; with power to authorize officials to enter premises at reasonable hours for the purpose of making tests and examinations of equipment and to require owners, occupants, managers and agents of property to make such tests and file reports thereon;

(48) authorizing the council by resolution to provide dumps or places of deposit for garbage, ashes, cleanings of yards and other refuse and rubbish; requiring the owners or the occupants of property to remove all garbage, ashes, cleanings and refuse, to such dumps or places of deposit; prohibiting persons from depositing the same in any other place; regulating the mode of removal and providing for and regulating the use of containers for garbage; regulating the use of dumps and providing for times and conditions under which the same may be used; with power to make such charges as the by-law provides for the removal of garbage if it is removed by the town and for the use of dumps;

(49) licensing persons engaged in the business of removing and collecting garbage, ashes and similar material, with power to limit the number of licenses, to fix the maximum charges to be made by the licensee, to regulate the operation of such business by licensees and to prohibit in whole or in part the business of

removing and collecting garbage, ashes and similar material by a person not holding a license;

(50) prohibiting persons from throwing any dirt, filth or rubbish on any street, road, lane or highway;

(50A) licensing and regulating gravel pits and excavations and without restricting the generality of the foregoing, with power

(i) to require the person responsible for the making of the gravel pit or excavation or the owner of the property (if the gravel pit or excavation was made by him or with his consent) to restore the same to a condition no more unsightly than before the gravel pit or excavation was made;

(ii) to provide for the giving of notice to restore, to such person or owner, by such person and in such manner as the by-laws stipulates, not however to be less than thirty days;

(iii) to enter upon the premises in event of failure to comply with such notice and to perform the word required by the notice and recover the cost thereof from the person on whom the notice was lawfully served, by action commenced by the clerk in the name of the municipality;

(iv) to provide that failure to comply with a notice is an offence;

(51) regulating and preventing the erection and carrying on of slaughter houses [slaughter-houses], tanneries, and factories or trades which are likely to become nuisances;

(52) regulating and preventing the ringing of bells, shouting or other unnecessary noises;

(53) prohibiting, restricting, regulating, licensing and controlling the use or operation of public address systems, phonographs, gramaphones, radios and other devices or apparatuses whether operated electrically, mechanically or in any other other way whatsoever whether movable or stationary which reproduce, amplify, emit or transmit sounds which are capable of being heard on any street or public place or in any building used wholly or in part as a dwelling other than the dwelling in which they are located, with power to prescribe a distance beyond which such sounds must not be audible and to discrimin-

ate between one type of device or apparatus and another, and to authorize the granting of exemptions in such cases as the by-law may provide; and for providing for the issuing of licenses by such official as the by-law may designate, and for cancellation and suspension of such licenses by the council for cause as may by such by-law be provided;

(54) preventing persons loitering on or about the steps or entrances of buildings, or on the streets;

(55) punishing persons entering private dwellings or places of business and remaining therein, after being requested to withdraw;

(56) establishing and regulating markets, market-houses and fairs;

(57) Repealed 1980, c. 49, s. 21.

(58) Repealed 1980, c. 49, s. 21.

(59) licensing and regulating auctioneers, pedlars, hawkers and traders of goods with power to discriminate between those who are both ratepayers and residents, and those who are ratepayers and not residents, and those who are not ratepayers but residents, those who are neither ratepayers nor residents in the town as to the amount of the license fee to be charged; provided that such by-law shall not affect the products of the farm, the forest or the sea;

(60) Repealed 1980, c. 49, s. 21.

(61) regulating and licensing owners of livery stables and other owners of horses or carriages letting out the same for hire or profit;

(62) licensing and authorizing a committee of the council to license, all exhibitions, circuses or other itinerant amusement performances and either fixing and regulating the fees to be paid for any license or authorizing the council to fix the fee, not exceeding five hundred dollars as it may in its discretion determine in each case; provided that nothing herein contained shall be construed as preventing or restricting the licensing of circuses or other itinerant amusement performances under the Theatres and Amusements Act and any regulations made thereunder;

(62A) regulating and licensing any automatic vending machine within the town and fixing the fee to be paid for any such license;

(63) regulating and licensing bowling alleys, billiard tables, bagatelle tables, skating rinks, dance halls, night clubs, shooting galleries and merry-go-rounds, but not including any of the matters in respect of which the Governor in Council is authorized by the Theatres Amusements Act, to make regulations;

(64) regulating and licensing automatic machines with power to discriminate as to the license fee to be charged for each type or kind of such machine; in this clause, "automatic machine" means any pinboard, or any automatic or slot machine (so called) which is operated by the introduction of a coin or counter but does not include automatic scales, telephone apparatus, or electric meters, nor those things the use or keeping thereof is prohibited by law for the reason that they constitute gambling devices, or for any other reason;

(64A) regulating and licensing any automatic vending machine within the town and fixing the fee to be paid for any such license;

(65) regulating and licensing photographers who are not residents or ratepayers of the town; in this clause the word "photographers" includes photographers, their agents, representatives, canvassers and solicitors respectively, soliciting or taking orders for photographs or enlargements of photographs made by any process where there is to be consideration moving to the photographer for making or delivering the same;

(66) licensing and regulating junk dealers with power to discriminate between those who are ratepayers in the town and those who are not ratepayers in the town as to the amount of license fee to be charged;

(67) Repealed 1982, c. 47, s. 7.

(68) providing for and regulating the inspection of buildings and structures within the town for the purpose of the prevention of fires and accidents and compelling the owners or occupiers of buildings to make such alterations or repairs as may be deemed necessary or to demolish or remove any such building or structure which in the opinion of the council is a menace to health or safety;

(69) providing for and regulating the cleansing, purifying, ventilating, disinfesting and disinfecting of buildings by the owners, occupiers, agents or persons having charge of the same;

(70) prohibiting expectoration in public places;

(71) regulating or prohibiting the use or occupation of buildings, halls, rooms or other places for public meetings, entertainments, amusements or other gatherings, for the purpose of preventing accidents therein, but not including any of the matters in respect of which the Governor in Council is authorized by the Theatres and Amusements Act, to make regulations;

(72) regulating or prohibiting advertising in public places;

(73) regulating and licensing restaurants, lunch counters and eating houses [eating-houses] with power to prescribe the conditions upon which internal divisions, stalls, partitions or screens may be installed therein and to provide for the closing by any police officer of any such restaurant, lunch counter or eating house [eating-house] where any of the provisions of any such by-law have not been complied with, whether or not a license in respect of such restaurant, lunch counter or eating house [eating-house] is in force;

(74) providing that during the whole or any part of the year all or any class or classes of shops, parlors [parlours] or places where the business of hair cutting or barbering is carried on, or all or any class or classes of shops, stores or places in which goods are exposed or offered for sale by retail, in the town, shall on any day or on certain days be closed to customers during certain hours, with power to exempt from the operation of the said by-law shops, stores or places in which goods are exposed or offered for sale by retail, the business occupancy assessment of which is below an amount set out in the by-law;

(75) appointing a building inspector;

(76) regulating the erection, construction, alteration and repair of buildings within the town, including the location, foundation, material to be used, construction of the chimneys, party walls [party-walls], sewerage, plumbing, heating, roofing, windows and doors, and generally all other matters and things necessary, expedient or desirable to guard against fire and to provide for the safety and health of the occupants and of the public generally and to improve the general appearance of the town; and prohibiting the erection, construction, alteration or repair of any building, and for prohibiting the erection, alteration or repair and regulating the height of buildings which in the opinion of the council may

interfere with the operation of any airport, whether or not the airport is within or without the town; and for the demolition or removal of buildings which may be erected, constructed, altered or repaired contrary to said by-laws;

(76A) adopting in whole or in part, with or without amendment a specified edition or printing of the National Building Code issued by the Associate Committee on the National Building Code of the National Research Council of Canada; the production of a printed volume purporting to contain the National Building Code of Canada of the edition or printing provided in the by-law, and purporting to be issued by the said Associate Committee shall be prima facie proof of the said Code without any signature or certification;

(77) (i) prescribing minimum standards of sanitation, plumbing, water supply, lighting, wiring, ventilation, heating, access, maintenance, appearance, construction and material for buildings occupied for residential purposes or parts thereof occupied for residential purposes, whether the building or the residential part thereof has been erected, constructed or converted to residential purpose before or after the passing of this clause or of the by-law; and

(ii) limiting the number of persons who may reside in any such building or residential part thereof; and

(iii) imposing on the owner, tenant or occupant or any one or more of them, the responsibility for complying with the by-law; and

(iv) providing for notice to an owner, occupant or tenant or one or more of them to discontinue the use of a building or part thereof as a place of residence in violation of the by-law and prescribing penalties for such use after notice to discontinue such use has been given;

(78) regulating or prohibiting the building, erecting, establishing, operating or maintaining of garages and of gasoline filling stations within the limits of the town, without the permission of the town council first having been obtained;

(79) except as to matters covered by Section 172, authorizing, licensing and regulating, upon such terms and conditions as the council may therein prescribe, or prohibiting the erecting, constructing, placing, altering, repairing, improving, extending or maintaining

upon, along, over or under any street, road, lane, sidewalk, bridge, park, square or public grounds of any poles, wires, and other equipment for the purpose of transmitting, receiving or distributing any radio or other sound programme [program] or any television, picture or other visible programme [program], and regulating the erecting, constructing, placing, altering, repairing, improving, extending or maintaining of such poles, wires or other equipment at any other place in the town;

(80) regulating, controlling or prohibiting the coursing or coasting upon a sled, sleigh or toboggan either generally in any street, lane, thoroughfare or over any sidewalk of the town or in or over specific streets, lanes, thoroughfares or sidwalks [sidewalks] of the town;

(81) regulating the construction, maintenance, and operation of the fire alarm telegraph;

(82) registering and licensing persons engaged in the business of electric wiring and the manner in which electric wiring shall be done, and the character of materials to be employed therein; and for the appointment of an inspector or inspectors to carry out any such by-law;

(83) fixing and regulating the fee to be paid for licenses under any by-law or ordinance of the town;

(84) regulating and licensing trailers when the same are not operated on a public street or highway; provided that no license fee shall exceed two hundred dollars for each trailer and provided that such by-law shall not apply to

(a) a trailer parked in the yard of any residential premises for a period not exceeding three weeks at any one time; or

(b) a trailer parked in the yard of the residential premises of the owner thereof;

if in either case it is not while so parked used for living or eating purposes or for the carrying on of any business;

(85) regulating and licensing camps, parks, tracts or areas of land and any facilities maintained, offered or used for the operating or camping of trailers, including all buildings used or intended to be used as part of the equipment thereof;

(86) providing for any other purpose, matter or thing within the powers, duties or control of the town council. R.S., c. 309, s. 221; 1968, c. 58, s. 7; 1970-71, c. 59, s. 14; 1973, c. 62, s. 2; 1976, c. 4, s. 6; 1977, c. 51, s. 19; 1978-79, c. 36, s. 30; 1980, c. 49, s. 21; 1982, c. 47, s. 7.

Application of Section

222 (1) The council may pass a by-law providing that subsections (2), (3), (4) and (5) of this Section apply to the town or to such part thereof as the by-law prescribes; and subsections (2), (3), (4) and (5) do not apply to a town or to any part thereof unless a by-law declaring that they do apply is in force.

Unsightly or Dangerous or Unhealthful Premises

(2) No person shall

(a) permit a building, fence, wharf, wall or other structure owned or occupied by him and being within an area mentioned in any such by-law, to be or to become partly demolished, decayed or deteriorated so as to be dangerous, unsightly, offensive or unhealthful; or

(b) permit to remain on any land owned or occupied by him and being in any such area any ashes, junk, rubbish, refuse, cleanings of yards, bodies, or parts of automobiles or other vehicles or machinery, or any other thing, so as to be dangerous, unsightly, unhealthful or offensive.

Notice To Remedy Condition

(3) Should a condition described in subsection (2) arise or exist, whether it arose before or after the passing of this Act or of the by-law, the council may instruct the clerk to serve notice on the owner or occupier requiring him to remedy the condition described in the notice; such notice may be served by being posted in a conspicuous place upon the building, fence, wharf, wall, structure or land or may be personally served upon the person named therein.

Failure To Comply with Notice

(4) In event of the failure of the person so served with notice, to remedy the condition described in the notice within thirty days after service, any person authorized by the council may enter upon the land upon which the condition exists, without writ, warrant or other legal process and remedy the condition which the council has required to be remedied; and the actual cost of so doing may

be recovered as a debt from the person so served, by action brought by the clerk in the name of the town in any court of competent jurisdiction within sixty days after the cost is incurred.

Penalty

(5) After notice has been served under subsection (3) any person who permits or causes a condition referred to in this Section or who fails to comply with the terms of said notice, shall be liable on summary conviction to a penalty of not less than one hundred dollars and not more than one thousand dollars, and in default of payment to imprisonment for a period of not less than fifteen days nor more than three months, and every day during which such condition is not remedied is a separate offence. R.S., c. 309, s. 222; 1978, c. 29, s. 4.

Fixing of Tax on Veterans' Land Act Property

223 Notwithstanding anything contained in this Act or in the Assessment Act or in any other Act, any council may by by-law fix for such term of years and upon such conditions as the council may determine the amount of the annual tax to be levied in respect of property held by a veteran under an agreement pursuant to the Veterans' Land Act (Canada) during such time as such property is held and occupied by a veteran under the provisions of the said Veterans' Land Act. R.S., c. 309, s. 223.

By-laws Effective upon Approval

224 (1) Every by-law made by the council under the authority of this or any other Act shall be subject to the approval of the Minister and when so approved shall have the force of law.

Revocation of Approval

(2) Notwithstanding the approval of any such by-law as aforesaid the Minister may subsequently revoke his approval of the same and after such revocation the by-law shall cease to have any force or effect.

Transmission of Certified Copies of By-law to Minister

(3) Two copies of every by-law enacted by the council under the provisions of this Act or of any other Act, shall be certified by the clerk to be true copies and shall be transmitted to the Minister. R.S., c. 309, s. 224.

Certified Copy Is Evidence

225 The production of a copy of any such by-law purporting to be certified by the town clerk, under his

hand and seal of the town, to be a true copy of the by-law passed by the town council, and approved by the Governor in Council or the Minister as the case may be, shall without proof of the official character of the town clerk or of his signature or of the said seal, be sufficient evidence of such by-law. R.S., c. 309, s. 225.

Book of Approved By-laws

226 (1) The town council shall keep in a suitable book one copy of every by-law passed by it and approved by the Minister, bearing the certificate of the Mayor [mayor] or person presiding at the meeting at which the by-law was passed and of the clerk or person acting as clerk at the meeting, under the seal of the town, that it was so passed, and bearing the approval of the Minister of Municipal Affairs.

Right of Inspection of Book and Production in Court

(2) The said book shall be open to inspection by any person at any reasonable time, but shall not be removed from the office of the clerk; the production of the said book or any part thereof in any court may not be required on subpoena but only upon order of the court or a judge thereof after satisfactory cause has been shown to it or him.

Printing of By-law and Availability

(3) Every town clerk shall, at the expense of the town, print all of the by-laws of the town now or hereafter in force; he shall keep printed copies thereof, amended to date, for sale and shall sell a copy of any by-law to any person applying therefor upon payment of the price determined by council by by-law, such price not to exceed the cost of printing the by-law.

Defence to Prosecution

(4) It shall be a defence in any prosecution for an offence against a by-law of the town if the person accused proves to the satisfaction of the court or judge that not earlier than one month before the offence was committed he applied to the clerk for a printed copy of the by-law and tendered the price and the clerk failed to provide him with a copy. R.S., c. 309, s. 226; 1972, c. 55, s. 7; 1976, c. 4, s. 7; 1980, c. 49, s. 22.

Prescribing of Maximum Penalty for Violation of By-law

227 (1) Except as otherwise provided, the council may by by-law prescribe a maximum penalty not exceeding one thousand dollars for the violation of any by-law of the town, and may in the by-law provide that in default of

payment of the penalty the offender may be imprisoned for a maximum period not exceeding ninety days.

Prescribing of Minimum Penalty for Violation of By-law

(2) The council may by by-law prescribe a minimum penalty not exceeding one hundred dollars for the violation of any by-law of the town, and may in the by-law provide that in default of payment of the penalty the offender may be imprisoned for a minimum period not exceeding ten days.

Where No Penalty Prescribed

(3) Where no penalty for violation of a by-law is prescribed, every person who violates a by-law shall be liable upon summary conviction to a penalty not exceeding two hundred and fifty dollars and in default of payment to imprisonment for a period not exceeding thirty days.

No Imprisonment without Alternative of Payment

(4) No by-law shall prescribe imprisonment without the alternative of payment of a penalty. 1980, c. 49, s. 23.

Penalty for Violating Certain Building By-laws

228 (1) Every person who contravenes or fails to comply with any by-law of the town made under the provisions of clauses (76), (76A) or (77) of Section 221 shall for each such offence be liable to a penalty of not less then one hundred dollars nor more than one thousand dollars and in default of payment to imprisonment for a period of not less than fifteen days nor more than three months.

Separate Offence

(2) Every day during which any such contravention or failure to comply continues shall be deemed a fresh offence. R.S., c. 309, s. 228; 1970, c. 72, s. 3; 1976, c. 4, s. 9.

Right of Action for Contravention of Building By-law

229 (1) In the event of any contravention or failure to comply with any by-law of the town made under clause (76), (76A) or (77) of Section 221 the town may in its own name bring an action or other legal proceedings in respect of the same, which the Trial Division of the Supreme Court or a Judge thereof may hear and determine at any time, and therein may, in addition to any other remedy or relief:

(a) make an order restraining the continuance or repetition of any such contravention or failure; or

(b) make an order directing the removal or destruction of any building or structure or part thereof, so contravening or failing to comply, or in respect of which any such contravention or failure has taken place, and that upon failure to comply with such order the town council may remove or destroy or may cause to be removed or destroyed such building or any part thereof, at the expense of the owner of the same; or

(c) make such other order as is required to enforce the by-law, and as to costs, and as to the recovery of the expense of any such removal or destruction, as to the Court or judge [Judge] seems right.

Where Offence Repeated after Proceedings Commenced

(2) In the event of any fresh offence by the same person against the by-law after any such action or other legal proceeding has been commenced by the town, it shall not be necessary to bring any other action or proceeding, but the action or proceeding already begun may be from time to time amended so as to include subsequent violations of the by-law, and the Court or judge [Judge] shall therein hear and deal with the whole matter of such violations.

Where Owner of Building Cannot Be Found

(3) If no owner of any building or structure in respect of which any such contravention or failure to comply is taking place, or has taken place, can be found within the town, the town council may post, or may cause to be posted, a notice of such contravention or failure, and of the intention to take proceedings in respect thereof, upon such building or structure, and at the expiry of ten days from the first day of such posting any proceedings in respect thereof may be had and taken ex parte.

No Action Lies

(4) No action shall be maintained against the town or against any of its officials or agents for anything purporting to be done under or in pursuance of this Section or Section 228. R.S., c. 309, s. 229; 1972, c. 2, s. 9; 1976, c. 4, s. 10.

230 Repealed 1980, c. 49, s. 24.

Council May Act at Expense of Defaulter under By-law

231 When any council, by by-law or otherwise, directs that any matter or thing shall be done, such council may by the same or another by-law or otherwise, in default of its being done by any person required to do the same, cause

such matter or thing to be done at the expense of the person in default, and may recover the expense thereof with costs from such person as a private debt. R.S., c. 309, s. 231.

Procedure To Repeal or Alter or Amend By-laws

232 No repeal, alteration or amendment of any by-law adopted by the council shall be made, unless two weeks notice in writing has first been given to the council of the intended motion to so repeal, alter or amend; provided that any by-law regulating the procedure at council meetings may be suspended, wholly or in part, by the unanimous consent of all the members of the council present, without such notice. R.S., c. 309, s. 232.

MISCELLANEOUS PROVISIONS

Effect of Act on Existing Tenure of Office

233 When by this Act the tenure of office of any official of the town is changed, the person now holding office shall hold office by the tenure in this Act provided. R.S., c. 309, s. 233.

Proof of Appointment of Officer

234 When at the trial of any action or complaint in any court it is necessary to prove the appointment of any officer of the town, a certificate under the hand of the town clerk and seal of the town, stating the time and manner of the appointment of such officer, and of his having been sworn into office, shall be sufficient proof of the appointment, and of his having been sworn into office, without any proof of the handwriting or signature of such clerk, or of the seal, or of the official character of such clerk. R.S., c. 309, s. 234.

Penalty on Clerk Who Gives False Certificate

234A If any clerk wilfully gives a false certificate that any resolution or by-law has been passed by the council, or that any by-law has been approved by the Minister, or by the Governor in Council, or that any appointment has been made by the Council, or by the warden and councillors, or that any person has taken an oath of office, or as to any other matter or thing which he is by this or any Act authorized or required to certify, he shall be liable on summary conviction to a penalty not exceeding one thousand dollars or in default of payment to imprisonment for a period not exceeding ninety days. 1978-79, c. 36, s. 31.

Administration of Oath

235 (1) Any oath required by any provision of this Act may unless the Act otherwise requires, be administered by any of the following persons, namely:

(a) the mayor;

(b) a councillor;

(c) the clerk;

(d) the stipendiary magistrate;

(e) a justice of the peace;

(f) a person empowered under the Notaries and Commissioners Act, to administer oaths and take and receive affidavits, declarations and affirmations within Nova Scotia.

Affirmation Instead of Oath

(2) Every person authorized by law to make affirmation may make affirmation instead of taking an oath in every case where an oath is required by this Act.

Authority To Administer

(3) Where by this Act an oath or affirmation is directed to be taken before or administered by any officer or person the authority to administer such oath or affirmation is included. R.S., c. 309, s. 235.

Admissibility of Photographic Reproduction

236 A photographic reproduction of an original document or record of a town shall be admissible in evidence in any court in all cases and for all purposes for which the object photographed would have been admissible and shall be prima facie proof of such document or record provided that the clerk makes affidavit that such photographic reproduction is part of the records and documents in his custody as clerk and that he believes it to be a true reproduction of the original. The court or judge may require production of the original document or record if it has not been destroyed. R.S., c. 309, s. 236.

Action Ex Delicto against Town or Council

237 (1) No action ex delicto shall be brought against any incorporated town, or against the town council or any member thereof, or against any officer or employee of the town or against any person acting under the authority of such town council, member, officer or employee, unless within twelve months next after the cause of action has

accrued, and upon one month's previous notice thereof in writing served upon the defendant, or in the case of an action against the town upon the town clerk, in which notice the cause of action and the court in which it is to be brought shall be explicitly stated, and upon the back thereof shall be indorsed the name and residence of the proposed plaintiff.

Place of Trial

(2) The place of trial of every such action shall be the county in which the cause of action arose, unless a change of the place of trial is made by order of the court or a judge under The Judicature Act, 1950 [the Judicature Act]. R.S., c. 309, s. 237.

238 Repealed 1978-79, c. 36, s. 32.

Sale of Article Found and Left with Police

239 Where any article has been found and left with the chief of police by any person and the owner thereof is unknown to the chief of police, he may, after it has been in his possession for not less than one year, with the approval in writing of the council or of a committee thereof, give notice of his intention to sell such article, by advertisement in a newspaper circulating in the town, and after the expiration of one month from the said publication, he may sell or dispose of it by public auction or private sale. He shall keep in a book in his office a record giving a description of the article and the circumstances under which it came to his possession, a copy of the advertisement and the price for which the same was sold. The money received from the sale after deducting the cost of the advertisement, or a proportionate part thereof if more than one article is advertised at the same time, shall be paid to the town clerk and treasurer for the use of the town, but the town shall repay the amount to the owner of the article at any time if he is able to establish ownership thereof. R.S., c. 309, s. 239.

240 Repealed 1980, c. 49, s. 25.

Schedule Repealed 1980, c. 49, s. 26.

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